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ABSTRACT

Presented is a compilation of federal legislation on higher education as amended through December 31, 1986 that covers general higher education programs, Native American higher education, the National Science Foundation, and assistance to specified institutions. The 11 titles of the Higher Education Act of 1965 are presented, along with the first and second Morrill Acts, the Bankhead-Jones Act, and the Harry S. Truman Memorial Scholarship Act. The following additional legislation/programs are covered: Navajo Community College Act, Tribally Controlled Community College Assistance Act of 1978, National Science Foundation Act of 1950, Howard University Endowment Act, Herbert Hoover Memorial, grants to Eisenhower College and to the Samuel Rayburn Library, Education Amendments of 1980, Public Law 98-480, Title III--Higher Education Projects; and Human Services Reauthorization Act, Title V--Higher Education and Research Project. (SW)

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[COMMITTEE PRINT]

100th Congress
1st Session
HOUSE OF REPRESENTATIVES

A COMPILATION OF FEDERAL EDUCATION LAWS

VOLUME III—HIGHER EDUCATION

As Amended Through December 31, 1986

PREPARED FOR THE USE OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

JULY 1987

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PART I—GENERAL HIGHER EDUCATION PROGRAMS

Higher Education Act of 1965

(P.L. 89-329)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Higher Education Act of 1965".

TITLE I—POSTSECONDARY PROGRAMS FOR NONTRADITIONAL STUDENTS

FINDINGS

Sec. 101. The Congress finds that—

(1) the increasing incidence of relocation and dislocation of industries and workers, the entry and reentry of adults into the labor force, and the rapid rate of change in technology, the economy, population demographics, and social conditions, necessitate significant improvement in postsecondary educational opportunities for adults in all stages of life;

(2) the majority of adults who continue their education do so for job-related and career-oriented reasons or to fulfill admissions requirements for educational or vocational training;

(3) minority-group citizens comprise the fastest growing segment of the population and labor force, yet are underrepresented in adult education programs;

(4) access to postsecondary educational opportunities is limited for adults whose educational needs have been inadequately served, or for those whose age, sex, race, disability, national origin, rural isolation, or economic or personal circumstances (such as marital status or responsibility with regard to dependent children) are barriers to such opportunities;

(5) enrollment of adult learners (including individuals aged 50 and over) approaches or equals that of traditional students in postsecondary institutions and such enrollment patterns are changing the demography of postsecondary education;

(6) the organizational structure and administration of postsecondary institutions often represents a significant barrier to matriculation for the adult learner and such institutions need to adapt themselves to integrate adult learners;

(7) the Federal Government should encourage the development of institutional partnerships between the public and private sectors and postsecondary institutions for the purpose of planning and implementing effective educational programs and services for the adult learner; and

(8) it is in the interest of the Federal Government to support continuing education for adults in order to reduce unemployment and underemployment, enhance job opportunities, and promote a well-trained, flexible, internationally competitive work force and an educated citizenry.

(20 U.S.C. 1001) Enacted Nov. 8, 1965, P.L. 89-329, sec. 101, 79 Stat. 1219; amended Oct. 16, 1968, P.L. 90-575, sec. 201, 82 Stat. 1035; amended June 23, 1972, P.L. 92-

318, sec. 101(a), 86 Stat. 236; amended October 12, 1976, P.L. 94-482, sec. 101(a), 90 Stat. 2083; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1373; amended October 17, 1986, P.L. 99-498, sec. 101, 100 Stat. 1278.

DEFINITIONS

SEC. 102. For the purpose of this title—

(1) the term "continuing education" means postsecondary instruction and support services that are designed to meet the educational needs of adult learners;

(2) the term "adult learner" means an individual who by reason of personal circumstance, age, gender, disability, minority status, income, rural isolation, economic or educational disadvantage, marital status, presence of dependent children, lack of or need for new employment skills (including skills needed to pursue a new career) or other significant barrier (A) is not a traditional student, and (B) engages in some form of structured postsecondary study to improve the individual's knowledge, information skills, or employment opportunities;

(3) the term "eligible institution" means an institution of higher education, combinations of institutions of higher education, or consortia of any such institutions; and

(4) the term "qualified entity" means a public or nonprofit private organization which has—

(A) experience in administering a program consistent with the requirements of this title; and

(B) demonstrated the ability to coordinate, manage, and provide technical assistance to programs that receive grants under this title.

(20 U.S.C. 1002) Enacted Nov. 8, 1965, P.L. 89-329, sec. 102, 79 Stat. 1219; amended October 12, 1976, P.L. 94-482, sec. 101(b)(1)(A), (b)(1)(B), (b)(1)(C), sec. 101(g)(2), 90 Stat. 2083, 2086; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1374; amended October 17, 1986, P.L. 99-498, sec. 101, 100 Stat. 1278.

LIMITATION ON CONTRACT AUTHORITY

SEC. 103. The authority to enter into contracts under this title is subject to the availability of appropriations.

(20 U.S.C. 1003) Enacted Nov. 8, 1965, P.L. 89-329, sec. 103, 79 Stat. 1220; amended June 23, 1972, P.L. 92-318, sec. 102(a)(2), 86 Stat. 237; amended October 12, 1976, P.L. 94-482, sec. 101(b)(2), sec. 101(g)(2), 90 Stat. 2084, 2086; amended June 15, 1977, P.L. 95-43, sec. 1(a)(1), 91 Stat. 213; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1375; amended October 17, 1986, P.L. 99-498, sec. 101, 100 Stat. 1279.

PART A—PROGRAM AND PLANNING GRANTS

INSTITUTIONAL DEVELOPMENT

SEC. 111. (a) PURPOSE.—It is the purpose of this section—

(1) to assist eligible institutions to establish programs relating postsecondary education resources more closely to the continuing educational training needs of the American work force;

(2) to help strengthen the capacity of postsecondary institutions to respond to the continuing education needs of adults, especially adults—

(A) dislocated by technological and economic change,

(B) seeking entry, reentry, or progression in the work force after prolonged absences due to marriage and childrearing;

(C) isolated from educational resources due to age or geographic location;

(D) seeking entry into nontraditional occupations for their race or sex;

(E) receiving aid to families with dependent children;

(F) who are functionally illiterate; and

(G) who desire to pursue a new career; and

(3) to support cooperative arrangements between eligible institutions, community-based organizations, and private and public sector employers that will facilitate meeting the goals of paragraphs (1) and (2).

(b) GRANTS.—To carry out the purpose of this section, the Secretary shall make grants to, and enter into contracts with, eligible institutions for activities, such as—

(1) structuring an academic program designed to facilitate the attendance of working students, parents caring for dependent children, and individuals seeking to reenter the educational system;

(2) making academic programs available to adult learners at convenient times and locations;

(3) the encouragement of resource sharing for innovative uses of technology, including telecommunications (on an interstate or intrastate basis) to overcome barriers to continuing education opportunities and to develop innovative delivery systems for education programs;

(4) the creation or expansion of education programs and curriculum, including adult literacy efforts, designed to meet the present and future needs of the labor market;

(5) the development of cooperative relationships between business and labor organizations, community-based organizations, and agencies which provide opportunities for continuing education;

(6) the removal of barriers posed by previous education or training, age, sex, race, handicap, national origin, rural isolation, or economic circumstance which may place adults at a disadvantage in seeking continuing educational opportunities;

(7) educational information, including literacy information, student financial assistance information, and occupational information and counseling services designed to meet the special needs of inadequately served adults and to assist their entry or reentry into continuing education and the labor force;

(8) training for administrators, faculty, and staff to improve their ability to teach and serve adult learners; and

(9) development of remedial instruction programs for adult learners to enable them to enroll in college-level educational programs.

(c) ADDITIONAL USE OF FUNDS.—(1) Funds awarded under this section to any eligible institution shall be used for the purposes under subsection (b), except that, to a limited extent as approved by the Secretary, such funds may also be used for program planning and development to carry out the purposes of this section including—

(A) making adult and continuing educational opportunities available at convenient times and locations, including off-campus locations;

(B) evaluating the responsiveness of continuing education programs to the work and career-related objectives of adults;

(C) developing or expanding educational and occupational information and counseling services to meet the special needs of adults, including information concerning available forms of student financial assistance;

(D) training of personnel in continuing education programs to improve their ability to serve adult learners;

(E) developing or expanding high-technology delivery systems and curricula to ensure closer development and career transitions for adult learners;

(F) joint planning and implementation activities between institutional and private sector representatives to expand educational opportunities;

(G) promoting the sharing of personnel and resources between an eligible institution and an employer;

(H) contributing to dependent care programs for low income participants in adult and continuing education and the development of dependent care programs; and

(I) encouraging and developing collaborative efforts between the institution or institutions and combinations of education institutions, private and public institutions, organizations, business, and labor to develop programs responsive to current employment and economic conditions.

(2) Funds made available under this section may not be used—

(A) to purchase or rent facilities to be used in connection with the program or for general operational overhead of the eligible institution; or

(B) to pay stipends or provide direct financial assistance to any individual participating in the programs established under this section.

(d) Applications for Assistance.—(1) Any eligible institution may submit an application to the Secretary at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate the need for assistance. The Secretary shall make awards on a competitive basis.

(2) Each such application shall—

(A) provide evidence that the eligible institution has identified the educational needs of potential adult learners in the area served by the applicant, especially adults identified in subsection (a)(2);

(B) describe the current continuing education program offered by the eligible institution (including information concerning the professional competence of faculty and staff, their degree of participation in the continuing education program, and institutional resources committed to the continuing education program) and the activities proposed to be developed or assisted to meet the purposes of this section;

(C) provide assurance that Federal funds made available under this section will comprise not more than 87.5 percent of the cost of the program in the second year, and 75 percent in the third year;

(D) describe procedures for evaluating the effectiveness of the activities for which a grant or contract is awarded under this section;

(E) provide for such financial controls and accounting procedures as are necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section and to ensure that funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this section and in no case supplant those funds;

(F) provide assurances that the continuing education programs, services, and activities, funded under this section will not be limited to individuals who are enrolled in programs of study that lead to baccalaureate or graduate degrees, but will also include programs for adults enrolled in noncredit continuing education programs, that address the purposes of this section;

(G) provide assurances that the program funded under this section does not duplicate existing State funded programs, and, in the case of any public institution, that the proposed program is consistent with the State's goals for that institution;

(H) provide the projected number of students who will participate in the program and the proposed operational budget for the program, including the specific amounts proposed to be expended for salaries;

(I) include assurances that the applicant intends to continue the activities to be supported under the grant after termination of the grant, including a detailed plan for obtaining funds to continue such activities;

(J) provide assurances that funds made available under this section will be used only for the purposes of this section;

(K) provide for a reasonable period of review and comment on the proposed program by the appropriate State agency and include any such comments with the application to the Secretary; and

(L) include such other information as the Secretary may reasonably require to carry out the provisions of this section.

(3) In awarding grants or contracts the Secretary shall give priority consideration to eligible institutions which—

(A) as appropriate, include area employer and employee organizations in the planning of the proposed continuing education activity and provide assurances of the continued participation of such organizations in the implementation, operation, and evaluation of the funded activities;

(B) include assurances that the appropriate State agencies concerned with postsecondary education and State labor market and economic agencies have been consulted in the development of the proposal;

(C) demonstrate a willingness to conduct and integrate into the curriculum work-oriented professional and technical continuing education programs;

(D) demonstrate the capacity to obtain contributions of staff, equipment, and resources for such programs from nonacademic sources, particularly employers; and

(E) provide assurances that adults enrolled in such programs will have access to suitable and adequate financial assistance opportunities, including Federal student aid funds available for students enrolled less than half time.

(20 U.S.C. 1011) Enacted October 12, 1976, P.L. 94-482, sec. 101(e), 90 Stat. 2085; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1377; amended October 17, 1986, P.L. 99-498, sec. 101, 100 Stat. 1279.

ESTABLISHMENT OF OFF-CAMPUS PROGRAM GRANTS

SEC. 112. (a) PURPOSE; OFF-CAMPUS EDUCATION PROGRAMS.—The Secretary shall establish a grant program to assist postsecondary institutions in developing programs to encourage the establishment and growth of off-campus educational programs.

(b) USES OF FUNDS.—Grants made under this section to any institution may be used for planning, developing, or operating a program designed by the institution to carry out the purposes of this section including—

(1) the development and use of high-technology educational delivery systems using computers, radio, television, teleconferencing, video-disc, print, any combination of such components, or such other means as may provide direct use and access by individuals to off-campus programs;

(2) the development of interstate educational delivery systems, cooperative, and consortia arrangements and programs (including telecommunications) which more effectively address regional needs for education;

(3) training of faculty and staff to develop educational programs using creative and innovative delivery systems;

(4) development of technological systems designed to enhance the teaching capabilities of faculty for students off-campus;

(5) the development of curricula and student support services for students off-campus; and

(6) acquisition (by lease or purchase) of necessary equipment, except that not more than 10 percent of such funds may be used for such acquisition.

(c) APPLICATIONS FOR ASSISTANCE.—(1) Any eligible institution requesting assistance under this section shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be required by the Secretary. The Secretary shall make awards on a competitive basis taking into consideration the relative cost and effectiveness of the proposed program.

(2) An institution, in its application for a grant, shall—

(A) describe a program for establishing or improving delivery systems for students off-campus which shall include (i) the proposed operational budget for the program or activities to be conducted with funds received under the grant; (ii) the educational program or courses which would be made available off-campus; and (iii) the educational needs which the program is designed to address;

(B) describe the applicant's current off-campus program or plans for an off-campus program;

(C) provide for such financial control and accounting procedures as may be necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section;

(D) set forth policies and procedures to ensure that Federal funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of this section and in no case supplant those funds;

(E) provide assurances that Federal funds made available under this section will comprise not more than 87.5 percent of the cost of the program in the second year, and 75 percent in the third year;

(F) set forth policies and procedures for evaluating the effectiveness of the institution in accomplishing the purposes of the activities for which a grant is awarded under this section; and

(G) provide such other information as the Secretary may require.

(3) Funds made available under this section to any institution may not be used for rent or the purchase of facilities to be used in connection with the program, for general operational overhead of the institution or combination of institutions, or for salaries or stipends to students participating in the program.

(20 U.S.C. 1012) Enacted Nov. 8, 1965, P.L. 89-329, sec. 109, 79 Stat. 1223; subsections (d) and (e) repealed April 13, 1970, P.L. 91-320, sec. 401(h) and superseded by Part C of Title IV of P.L. 90-247 as amended; renumbered June 23, 1972, P.L. 92-318, sec. 102(a)(1), 86 Stat. 236; renumbered, May 3, 1973, P.L. 93-29, sec. 803, 87 Stat. 54; amended August 21, 1974, P.L. 93-380, sec. 831, 88 Stat. 603; renumbered and amended October 12, 1976, P.L. 94-482, sec. 101(e), sec. 101(f)(1)(A) and (f)(1)(B), sec. 1019(g)(2), 90 Stat. 2085, 2086; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1377; amended October 17, 1986, P.L. 99-498, sec. 101, 100 Stat. 1282.

ADULT AND CONTINUING EDUCATION STAFF DEVELOPMENT

Sec. 113. (a) Purpose.—It is the purpose of this section to assist eligible institutions to provide in-service training to individuals involved in providing adult and continuing education services, including personnel involved in training offered under the Adult Education Act, the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the National Apprenticeship Act, the Older Americans Act of 1965, and the Social Security Act.

(b) Grants Authorized.—To carry out the purpose of this section, the Secretary shall make grants to eligible postsecondary institutions that have entered into agreements with the Secretary to carry out an adult and continuing education staff development training program in accordance with the requirements of this section, which may include—

(1) programs designed to enhance the pedagogical skills of the staff involved in programs offering adult and continuing education, including the training of staff and volunteers for literacy programs;

(2) technical assistance to programs of adult education, with particular emphasis on federally funded programs; and

(3) development of adult and continuing educational curricula materials, including adult literacy curricula, that may be used in adult and continuing education staff development

training, especially materials that focus on utilization of new technologies.

(c) Applications for Assistance.—(1) Any eligible institution requesting assistance under this section shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be required by the Secretary. The Secretary shall make awards on a competitive basis taking into consideration the relative cost and effectiveness of the proposed program.

(2) An institution, in its application for a grant, shall—

(A) describe a proposal for establishing or improving staff development programs including the proposed operational budget for the program or activities to be conducted with funds made available under this section;

(B) describe the applicant's current staff development program;

(C) provide for such financial control and accounting procedures as may be necessary to ensure proper disbursement and accounting for funds made available to the applicant under this section;

(D) set forth policies and procedures to ensure that Federal funds made available under this section for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of this part and in no case supplant those funds;

(E) set forth policies and procedures for evaluating the effectiveness of the institution in accomplishing the purposes of the activities for which a grant is awarded under this section; and

(F) provide such other information as the Secretary may require.

(3) Funds made available under this section to any institution may not be used for rent or the purchase of facilities to be used in connection with the program, for general operational overhead of the institution or combination of institutions, or for salaries or stipends to students participating in the program.

(4) A grant under this section may not exceed $50,000 for any fiscal year and may be awarded for a period not to exceed 3 years.

(20 U.S.C. 1013) Enacted Nov. 8, 1965, P.L. 89–329, sec. 110, 79 Stat. 1224; renumbered June 23, 1972, P.L. 92–318, sec. 102(a)(1), 86 Stat. 236; renumbered May 3, 1973, P.L. 93–29, sec. 803, 87 Stat. 59; renumbered and amended October 12, 1976, P.L. 94–482, sec. 101(e) and sec. 101(f)(2), 90 Stat. 2085, 2086; amended October 3, 1980, P.L. 96–374, sec. 101(a), 94 Stat. 1378; amended October 19, 1984, P.L. 98–524, sec. 4(c)(1), 98 Stat. 2488; amended October 17, 1986, P.L. 99–498, sec. 101, 100 Stat. 1284.

ADMINISTRATION OF PROGRAMS BY THE SECRETARY

Sec. 114. The Secretary shall ensure the equitable geographic distribution of funds under this part. In making awards under this part, the Secretary shall consider the equitable levels of funding for urban and rural areas. Grants and contracts under section 111 or 112 may be awarded for a period not to exceed 3 years and may not exceed $100,000 in the first year of funding, except that a grant or contract involving combinations of institutions of higher education or a consortia with other institutions or organizations may not exceed $150,000 in the first year.

(20 U.S.C. 1014) Enacted Nov. 8, 1965, P.L. 89-329, sec. 111, 79 Stat. 1224; renumbered June 23, 1972, P.L. 92-318, sec. 102(a)(1), 86 Stat. 236; amended June 23, 1972, P.L. 92-318, sec. 131(d)(2), 86 Stat. 260; renumbered May 3, 1973, P.L. 93-29, sec. 803, 87 Stat. 59, renumbered October 12, 1976, P.L. 94-482, sec. 101(e), 90 Stat. 2085; amended October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1378; amended October 19, 1984, P.L. 98-524, sec. 4(c)(2), 98 Stat. 2488; amended October 17, 1986, P.L. 99-498, sec. 101, 100 Stat. 1285.

AUTHORIZATION OF APPROPRIATIONS

SEC. 115. There is authorized to be appropriated to carry out this part $10,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years. One hundred percent of the funds appropriated under this section for fiscal year 1987 shall be available only to carry out sections 111 and 112.

(20 U.S.C. 1015) Enacted October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1380; amended October 17, 1986, P.L. 99-498, sec. 101, 100 Stat. 1285.

PART B—NATIONAL PROGRAMS

ADULT LEARNING RESEARCH

SEC. 121. (a) ESTABLISHMENT OF PROGRAM.—To carry out the purpose of this section by providing assistance to institutions of higher education, the Secretary is authorized to make grants to, and to enter into contracts with, eligible institutions to ensure a sustained capacity to undertake independent research and research application activities in adult and continuing education.

(b) USES OF FUNDS.—Funds made available under this section to any eligible institution may be used for planning, developing, or operating a program which may include—

(1) identifying and analyzing the special problems and needs of adult learners;

(2) collecting, analyzing, and disseminating information relating to adult learners and their educational and employment objectives, with particular focus on analyzing and disseminating information on the current and projected needs of the labor market;

(3) examining and applying uses of education technologies to reach new and isolated learners;

(4) collecting and disseminating relevant data from Federal agencies and other national and State resources applicable to postsecondary institutional planning for continuing education, including information related to Federal and other forms of student financial assistance;

(5) supporting training programs designed to enhance the effectiveness of faculty to teach adult learners;

(6) developing curriculum and instructional methods for adults seeking new employment opportunities;

(7) demonstrating and disseminating new and existing programs designed for the adult learner; and

(8) promoting resource sharing for innovative uses of technology, including telecommunications, to overcome barriers to postsecondary educational opportunities.

(c) APPLICATION FOR ASSISTANCE.—A grant or contract authorized by this part may be awarded by the Secretary on a competitive basis upon receipt of an application, which is submitted to the Secretary at such time or times and contains such information as the Secretary may prescribe. Each such application shall—

(1) contain provisions that demonstrate the existing resources and academic reputation of the institution of higher education in the field of continuing education and its ability to conduct such activities; and

(2) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part.

(20 U.S.C. 1016) Enacted October 3, 1980, P.L. 96-374, sec. 101(a), 94 Stat. 1381; renumbered and amended October 17, 1986, P.L. 99-498, sec. 101, 100 Stat. 1285.

AUTHORIZATION LIMITATION

Sec. 122. No funds are authorized to be appropriated for the purpose of this part for fiscal year 1987 and the 4 succeeding fiscal years.

(20 U.S.C. 1016a); amended October 17, 1986, P.L. 99-498, sec. 101, 100 Stat. 1286.

Part C—The National Advisory Council on Continuing Education

NATIONAL ADVISORY COUNCIL ON CONTINUING EDUCATION

Sec. 131. (a) Establishment and Composition.—The President shall appoint a National Advisory Council on Continuing Education consisting of 8 representatives of Federal agencies having postsecondary continuing education and training responsibilities, including, but not limited to—

(1) one representative each from—

(A) the Department of Education,

(B) the Department of Agriculture,

(C) the Department of Defense,

(D) the Department of Labor, and

(E) the Veterans' Administration; and

(2) 12 members, not full-time employees of the Federal Government, who are knowledgeable and experienced in the field of continuing education, including State and local government officials, representatives of business, labor, and community groups, and adults whose educational needs have been inadequately served.

The Advisory Council shall meet at the call of the Chairman but not less than twice a year.

(b) Advisory Functions.—The Advisory Council shall advise the Secretary in the preparation of general regulations and with respect to policies and procedures arising in the administration of this Act with respect to continuing education.

(c) Functions Relating to Eliminating Duplication.—The Advisory Council shall examine all federally supported continuing education and training programs and make recommendations with regard to policies to eliminate duplication and to effectuate the coordination of programs under this Act with respect to continuing education and other federally funded continuing education and training programs and services.

(d) REPORTS.—The Advisory Council shall make annual reports to the President, the Congress, and the Secretary of its findings and recommendations, including recommendations for changes in the provisions of this Act with respect to continuing education and other Federal laws relating to continuing education and training activities. The President shall transmit each such report to the Congress with his comments and recommendations. The Advisory Council shall make such other reports or recommendations to the President, the Congress, the Secretary, or the head of any other Federal department or agency as may be appropriate.

(e) USE OF SERVICES.—The Advisory Council may utilize the services and facilities of any agency of the Federal Government as may be necessary. The Advisory Council may accept, employ, and dispose of gifts or bequests to carry out its responsibilities under this section.

(20 U.S.C. 1017) Enacted October 3, 1980, P.L. 96–374, sec. 101(a), 94 Stat. 1382; amended August 22, 1986, P.L. 99–386, sec. 103(a), 100 Stat. 821; renumbered and amended October 17, 1986, P.L. 99–498, sec. 101, 100 Stat. 1286.

TITLE II—ACADEMIC LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT.

PURPOSE; AUTHORIZATION

SEC. 201. (a) The Secretary shall carry out a program to assist—

(1) institutions of higher education in the acquisition of library resources, including law library resources, and in the establishment and maintenance of networks for sharing library resources in accordance with part A;

(2) in the training of persons in librarianship and to encourage research and development relating to the improvement of libraries (including the promotion of economical and efficient information delivery, cooperative efforts, and developmental projects) in accordance with part B;

(3) the Nation's major research libraries, in maintaining and strengthening their collections, and in making their holdings available to other libraries whose users have need for research materials, in accordance with part C; and

(4) college and university libraries in acquiring technological equipment and in conducting research in information technology in accordance with part D.

(b)(1) There are authorized to be appropriated to carry out part A $10,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There are authorized to be appropriated to carry out part B $5,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) There are authorized to be appropriated to carry out part C $10,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(4) There are authorized to be appropriated to carry out part D $5,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(20 U.S.C. 1021) Enacted Nov. 8, 1965, P.L. 89-329, sec. 201, 79 Stat. 1224; amended Oct. 16, 1968, P.L. 90-575, sec. 211, 82 Stat. 1036; amended June 23, 1972, P.L. 92-318, sec. 111(b)(1), 86 Stat. 238; amended October 12, 1976, P.L. 94-482, sec. 106, 90 Stat. 2089; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1384; amended October 17, 1986, P.L. 99-498, sec. 201(b), (c), 100 Stat. 1287.

NOTIFICATION OF STATE AGENCY

SEC. 202. Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

(20 U.S.C. 1022) Enacted Nov. 8, 1965, P.L. 89-329, sec. 202, 79 Stat. 1224; amended Nov. 3, 1966, P.L. 89-752, sec. 9, 80 Stat. 1243; amended Oct. 16, 1968, P.L. 90-575, sec. 214, 82 Stat. 1037; amended June 23, 1972, P.L. 92-318, sec. 111(b)(2)(A), 86 Stat. 238; amended and redesignated June 23, 1972, P.L. 92-318, sec. 112, 86 Stat. 240; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1384.

PART A—COLLEGE LIBRARY RESOURCES

COLLEGE LIBRARY RESOURCES

SEC. 211. (a) From the amount appropriated for this part, the Secretary shall make grants to eligible institutions of higher education or combinations thereof (and to branches of institutions which are located in different communities from that in which its parent institution is located). The amount of a grant under this part shall not be less than $2,000 nor more than $10,000 and shall reflect the number of full-time equivalent students enrolled at the recipient institution. If the funds are not sufficient to provide grants to all eligible institutions, grants shall be made to those institutions demonstrating the greatest need, based on the eligibility criteria in section 211(c).

(b) A grant under this part may be made only if the application provides—

(1) information about the institution and its library resources as prescribed by the Secretary in regulations;

(2) satisfactory assurance that the applicant has expended for all library materials (exclusive of construction) during the institutional fiscal year preceding the year of application for which the grant is sought (hereafter in this section referred to as the "base year"), from funds other than funds received under this part, an amount not less than the average annual aggregate amount or the average amount per full-time equivalent student it expended for such purposes during the two years preceding the base year;

(3) for such fiscal control and fund accounting procedures as are necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part;

(4) for making such reports as the Secretary may require, including a report on how such funds received under a grant were expended, and for keeping such records and for affording such access thereto as the Secretary deems necessary to assure the correctness and verification of such reports; and

(5) a statement setting forth how the funds received under this part will be used to improve the quality of the institution's library services.

(c) In order to be considered an eligible institution, an institution must provide the Secretary assurance that—

(1) the expenditures of the institution per full-time equivalent student for library materials are less than the average of the expenditures for library materials per full-time equivalent student by other institutions of comparable size and program, as determined by the Secretary in accord with definitions established by the Center for Education Statistics; and

(2) the number of volumes per full-time equivalent student is less than the average of such number of volumes held by institutions of comparable size and program, as determined by the Secretary in accord with definitions established by the Center for Education Statistics.

(d) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent the applicant from making the assurance required by subsection (b)(2), the requirement for such assurance may be waived. For the purpose of this subsection, the term "very unusual circumstances" means theft, vandalism, fire, flood, earthquake, or other occurrence which may temporarily reduce the level of expenditures for library materials, or which resulted in unusually high expenditures for library materials.

(e) If the Secretary determines, in accordance with regulations, that there are very unusual circumstances which prevent an otherwise eligible institution from qualifying under subsection (c), the requirements of subsection (c) may be waived. The Secretary may not grant such waivers to more than 5 percent of the eligible institutions receiving grants under this part.

(f) Grants under this part may be used only for books, periodicals, documents, magnetic tapes, computer software, phonographic records, audiovisual materials, and other related library materials (including necessary binding) and for the establishment and maintenance of networks for sharing library resources with other institutions of higher education.

(20 U.S.C. 1029) Enacted October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1384; amended October 17, 1986, P.L. 99-498, sec. 202, 100 Stat. 1278.

DEFINITION

SEC. 213. For the purpose of this part, the term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time at such institution (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12).

(20 U.S.C. 1030); amended October 17, 1986, P.L. 99-498, sec. 203, 100 Stat. 1289.

PART B—LIBRARY TRAINING, RESEARCH, AND DEVELOPMENT

GRANTS AUTHORIZED

SEC. 221. From the amounts appropriated for this part for any fiscal year, the Secretary shall make grants in accordance with sections 222 and 223. Of such amount, two-thirds shall be available for the purpose of section 222 and one-third shall be available for the purpose of section 223.

(20 U.S.C. 1031) Enacted June 23, 1972, P.L. 92-318, sec. 111(b)(3)(A), 86 Stat. 239; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1385; amended October 17, 1986, P.L. 99-498, sec. 204(b)(1), 100 Stat. 1289.

LIBRARY CAREER TRAINING

SEC. 222. (a) The Secretary shall make grants to, and contracts with, institutions of higher education and library organizations or agencies to assist them in training persons in librarianship. Such grants or contracts may be used by such institutions, library organizations, or agencies (1) to assist in covering the cost of courses of training or study (including short term or regular session institutes), (2) to establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows and others undergoing training and their dependents, not in excess of such maximum amounts as may be determined by the Secretary, and (3) to establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology.

(b) Not less than 50 per centum of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

(20 U.S.C. 1032) Enacted Nov. 8, 1965, P.L. 89-329, sec. 223, 79 Stat. 1227; amended Oct. 16, 1968, P.L. 90-575, sec. 216, 82 Stat. 1037; amended June 23, 1972, P.L. 92-318, sec. 111(b)(3) (B) and (K); redesignated by P.L. 92-318, sec. 111(b)(3)(D), 86 Stat. 240; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1385.

RESEARCH AND DEMONSTRATIONS

SEC. 223. The Secretary is authorized to make grants to, and contracts with, institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration projects related to the improvement of libraries, training in librarianship, and for the dissemination of information derived from such projects.

(20 U.S.C. 1033) Enacted Nov. 8, 1965, P.L. 89-329, sec. 224, 79 Stat. 1228; subsec. (c) repealed Apr. 13, 1970, P.L. 91-230, sec. 401(h) and superseded by pt. C of title IV of P.L. 90-247, as amended. (20 U.S.C. 1233c.); redesignated June 23, 1972, P.L. 92-318, sec. 111(b)(3)(D), 86 Stat. 240; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1385; amended October 17, 1986, P.L. 99-498, sec. 205, 100 Stat. 1289.

PART C—STRENGTHENING RESEARCH LIBRARY RESOURCES

ELIGIBILITY FOR ASSISTANCE

SEC. 231. (a)(1) From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

(2) For the purposes of this part, the term "major research library" means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

(A) makes a significant contribution to higher education and research;

(B) is broadly based and is recognized as having national or international significance for scholarly research;

(C) is of a unique nature, and contains material not widely available; and

(D) is in substantial demand by researchers and scholars not connected with that institution.

(b) No institution receiving a grant under this part for any fiscal year may receive a grant under section 211 for that year.

(c) In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.

(20 U.S.C. 1041) Enacted Nov. 8, 1965, P.L. 89-329, sec. 231, 79 Stat. 1228; amended Oct. 16, 1968, P.L. 90-575, sec. 217, 218, 82 Stat. 1037-1038; amended June 23, 1972, P.L. 92-318, sec. 114, 86 Stat. 240; amended Oct. 12, 1976, P.L. 94-482, sec. 107, 90 Stat. 2090; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1386; amended October 17, 1986, P.L. 99-498, sec. 204(b)(2), 206, 100 Stat. 1289.

GEOGRAPHICAL DISTRIBUTION OF GRANTS

SEC. 232. In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

(20 U.S.C. 1042) Enacted June 23, 1972, P.L. 92-318, sec. 115(a), 86 Stat. 241; amended Oct. 12, 1976, P.L. 94-482, sec. 107, 90 Stat. 2090; amended October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1386.

PART D—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

ESTABLISHMENT OF PROGRAM

SEC. 241. (a) The Secretary is authorized to make grants for technological equipment and other special purposes to—

(1) institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, installation, maintenance, or replacement of technological equipment (including computer hardware and software) necessary to participate in networks for sharing of library resources;

(2) combinations of higher education institutions which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment;

(3) other public and private nonprofit organizations which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services to institutions of higher education; and

(4) institutions of higher education conducting research or demonstration projects to meet special national or regional needs in utilizing technology to enhance library or information sciences.

(b) From funds appropriated for this part, the Secretary shall make competitive awards to institutions or combinations of institutions in each of the categories described in clauses (1) through (4) of subsection (a). The minimum award shall be $15,000 and may be expended over a 3-year period.

(c) A grant under this section may be made only if the application (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that the applicant will expend during the 3-year period for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant.

(d) This program shall be administered in the Department by an expert in library technology.

(20 U.S.C. 1047) Enacted October 3, 1980, P.L. 96-374, sec. 201, 94 Stat. 1386; amended October 17, 1986, P.L. 99-498, sec. 207, 100 Stat. 1289.

TITLE III—INSTITUTIONAL AID

FINDINGS AND PURPOSES

SEC. 301. (a) FINDINGS.—The Congress finds that—

(1) many institutions of higher education in this era of declining enrollments and scarce resources face problems which threaten their ability to survive;

(2) the problems relate to the management and fiscal operations of certain institutions of higher education, as well as to an inability to engage in long-range planning, recruitment activities, and development activities, including endowment building;

(3) the title III program prior to 1985 did not always meet the specific development needs of historically Black colleges and universities and other institutions with large concentrations of minority, low-income students;

(4) the solution of the problems of these institutions would enable them to become viable, fiscally stable and independent, thriving institutions of higher education;

(5) providing a minimum level of assistance to all categories of eligible institutions will assure the continued participation of the institutions in the program established in title III and enhance their role in providing access and quality education to low-income and minority students;

(6) these institutions play an important role in the American system of higher education, and there is a strong national interest in assisting them in solving their problems and in stabilizing their management and fiscal operations, and in becoming financially independent; and

(7) there is a particular national interest in aiding those institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the American system of higher education is in the Nation's interest so that equality of access and quality of postsecondary education opportunities may be enhanced for all students.

(b) Purpose.—It is the purpose of this title to assist such institutions in equalizing educational opportunity through a program of Federal assistance.

(20 U.S.C. 1051) Enacted June 23, 1972, P.L. 92-318, sec. 121(a), 86 Stat. 241; amended Oct. 12, 1976, P.L. 94-482, sec. 111, 90 Stat. 2091; amended October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1390; amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1290.

Part A—Strengthening Institutions

PROGRAM PURPOSE

Sec. 311. (a) General Authorization.—The Secretary shall carry out a program, in accordance with this part, to improve the academic quality, institutional management, and fiscal stability of eligible institutions, in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

(b) Grants Awarded; Special Consideration.—(1) From the sums available for this part under section 360(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 351 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution.

(2) Special consideration shall be given to any eligible institution—

(A) which has endowment funds (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) the market value of which, per full-time equivalent student, is less than the average current market value of the endowment funds, per full-time equivalent student (other than any endowment fund built under section 332 of this Act as in effect on September 30, 1986, and under part B) at similar institutions; or

(B) which has expenditures per full-time equivalent student for library materials which is less than the average of the expenditures for library materials per full-time equivalent student by other similarly situated institutions.

(3) Special consideration shall be given to applications which propose, pursuant to the institution's plan, to engage in—

(A) faculty development;

(B) funds and administrative management;

(C) development and improvement of academic programs;

(D) acquisition of equipment for use in strengthening funds management and academic programs;

(E) joint use of facilities such as libraries and laboratories; and

(F) student services.

(20 U.S.C. 1057) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1391; amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1291; amended June 3, 1987, P.L. 100-50, sec. 2(a)(1), 101 Stat. 335.

DEFINITIONS; ELIGIBILITY

Sec. 312. (a) Educational and General Expenditures.—For the purpose of this part, the term "educational and general expenditures" means the total amount expended by an institution of higher education for instruction, research, public service, academic support (including library expenditures), student services, institutional support, scholarships and fellowships, operation and maintenance expenditures for the physical plant, and any mandatory transfers which the institution is required to pay by law.

(b) ELIGIBLE INSTITUTION.—For the purpose of this part, the term "eligible institution" means—

(1) an institution of higher education—

(A) which has an enrollment of needy students as required by subsection (c) of this section;

(B) except as provided in section 352(b), the average educational and general expenditures of which are low, per full-time equivalent undergraduate student, in comparison with the average educational and general expenditures per full-time equivalent undergraduate student of institutions that offer similar instruction;

(C)(i) which is legally authorized to provide, and provides within the State, an educational program for which it awards a bachelor's degree, or (ii) which is a junior or community college;

(D) which is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be reliable authority as to the quality of training offered or which is, according to such an agency or association, making reasonable progress toward accreditation;

(E) except as provided in section 352(b) which has, during the 5 academic years preceding the academic year for which it seeks assistance under this part—

(i) met the requirement of either subparagraph (C)(i) or (C)(ii), or of both such subparagraphs (simultaneously or consecutively); and

(ii) met the requirement of subparagraph (D); and

(F) which meets such other requirements as the Secretary may prescribe;

(2) any branch of any institution of higher education described under paragraph (1) which by itself satisfies the requirements contained in subparagraphs (A) and (B) of such paragraph;

(3) any institution of higher education which has an enrollment of which at least 20 percent are Mexican American, Puerto Rican, Cuban, or other Hispanic students, or combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1);

(4) any institution of higher education which has an enrollment of at least 60 percent American Indian, or in the case of Alaska natives, an enrollment of at least 5 percent, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1); and

(5) any institution of higher education which has an enrollment of which at least 5 percent are Native Hawaiian, Asian American, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian, or any combination thereof, and which also satisfies the requirements of subparagraphs (A), (B), (C), and (D) of paragraph (1).

For purposes of the determination of whether an institution is an eligible institution under this paragraph, the factor described under paragraph (1)(A) shall be given twice the weight of the factor described under paragraph (1)(B).

(c) Enrollment of Needy Students.—For the purpose of this part, the term "enrollment of needy students" means an enrollment at an institution of higher education or a junior or community college which includes—

(1) at least 50 percent of the degree students so enrolled who are receiving need-based assistance under title IV of this Act in the second fiscal year preceding the fiscal year for which the determination is being made (other than loans for which an interest subsidy is paid pursuant to section 428), or

(2) a substantial percentage of students receiving Pell Grants in the second fiscal year preceding the fiscal year for which determination is being made, in comparison with the percentage of students receiving Pell Grants at all such institutions in second[1] preceding fiscal year, unless the requirement of this subdivision is waived under section 352(a).

(d) Full-Time Equivalent Students.—For the purpose of this part, the term "full-time equivalent students" means the sum of the number of students enrolled full time at an institution, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institution.

(e) Junior or Community College.—For the purpose of this part, the term "junior or community college" means an institution of higher education—

(1) that admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than 2 years that is acceptable for full credit toward such a degree, or

(B) offers a 2-year program in engineering, mathematics, or the physical or biological sciences, designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

(20 U.S.C. 1058) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1391; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1292; amended June 3, 1987, P.L. 100–50, sec. 2(a)(2)–(6), 101 Stat. 335.

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[1] So in original.

DURATION OF GRANT

SEC. 313. (a) GENERAL RULE.—The Secretary may award a grant to an eligible institution under this part for—

(1) not to exceed 3 years;

(2) not to exceed 4 years; or

(3) not to exceed 5 years.

(b) PROHIBITION.—An eligible institution that is awarded a grant—

(1) under paragraph (2) of subsection (a) shall not be eligible to receive a grant under this part during the 4 years immediately following the period that it received such grant; and

(2) under paragraph (3) of subsection (a) shall not be eligible to receive a grant under this part during the 5 years immediately following the period that it received such grant.

(c) PLANNING GRANTS.—Notwithstanding subsection (a), the Secretary may award a grant to an eligible institution under this part for a period of one year for the purpose of preparation of plans and applications for a grant under this part.

(20 U.S.C. 1059) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1392; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1294.

APPLICATION REVIEW PROCESS

SEC. 314. (a) REVIEW PANEL.—(1) All applications submitted under part A by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(2) The Secretary shall take care to include as readers representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of students who are Hispanic, Native American, Asian American, and Native American Pacific Islander (including Native Hawaiians).

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under part A, including—

(A) explanations and examples of the types of activities referred to in section 311(b) that must receive special consideration for grants awarded under part A;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under part A; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under part A, the amount of any such grant, and the duration of any such grant.

(b) RECOMMENDATIONS OF PANEL.—In awarding grants under part A, the Secretary shall take into consideration the recommendations of the panel established under subsection (a).

(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under part A of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under part A and any modifications, if any, in the recommendations of the panel made by the Secretary.

(20 U.S.C. 1059a) Enacted June 3, 1987, P.L. 100-50, sec. 2(b), 101 Stat. 336.

PART B—STRENGTHENING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

FINDINGS AND PURPOSES

SEC. 321. The Congress finds that—

(1) the historically Black colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for Black, low-income, and educationally disadvantaged Americans;

(2) States and the Federal Government have discriminated in the allocation of land and financial resources to support Black public institutions under the Morrill Act of 1862 and its progeny, and against public and private Black colleges and universities in the award of Federal grants and contracts, and the distribution of Federal resources under this Act and other Federal programs which benefit institutions of higher education;

(3) the current state of Black colleges and universities is partly attributable to the discriminatory action of the States and the Federal Government and this discriminatory action requires the remedy of enhancement of Black postsecondary institutions to ensure their continuation and participation in fulfilling the Federal mission of equality of educational opportunity; and

(4) financial assistance to establish or strengthen the physical plants, financial management, academic resources, and endowments of the historically Black colleges and universities are appropriate methods to enhance these institutions and facilitate a decrease in reliance on governmental financial support and to encourage reliance on endowments and private sources.

(20 U.S.C. 1060) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1393; amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1294.

DEFINITIONS

SEC. 322. For the purpose of this part:

(1) The term "graduate" means an individual who has attended an institution for at least three semesters and fulfilled academic requirements for undergraduate studies in not more than 5 consecutive school years.

(2) The term "part B institution" means any historically Black college or university that was established prior to 1964, whose principal mission was, and is, the education of Black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the Secretary to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation.

(3) The term "Pell Grant recipient" means a recipient of financial aid under subpart 1 of part A of title IV of this Act.

(4) The term "professional and academic areas in which Blacks are underrepresented" shall be determined by the Secretary and the Commissioner of the Bureau of Labor Statistics, on the basis of the most recent available satisfactory data, as professional and academic areas in which the percentage of Black Americans who have been educated, trained, and employed is less than the percentage of Blacks in the general population.

(5) The term "school year" means the period of 12 months beginning July 1 of any calendar year and ending June 30 of the following calendar year.

(20 U.S.C. 1061) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1393; amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1294.

GRANTS TO INSTITUTIONS

SEC. 323. (a) GENERAL AUTHORIZATION; USES OF FUNDS.—From amounts available under section 360(a)(2) in any fiscal year the Secretary shall make grants (under section 324) to institutions which have applications approved by the Secretary (under section 325) for any of the following uses:

(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities.

(3) Support of faculty exchanges and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

(4) Academic instruction in disciplines in which Black Americans are underrepresented.

(5) Purchase of library books, periodicals, microfilm, and other educational materials.

(6) Tutoring, counseling, and student service programs designed to improve academic success.

(b) LIMITATIONS.—(1) No grant may be made under this Act for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For the purpose of this subsection, the term "school or department of divinity" means an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(2) Not more than 50 percent of the allotment of any institution may be available for the purpose of constructing or maintaining a classroom, library, laboratory, or other instructional facility.

(20 U.S.C. 1062) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1395; amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1295; amended June 3, 1987, P.L. 100-50, sec. 2(a)(7), 101 Stat. 335.

ALLOTMENTS TO INSTITUTIONS

Sec. 324. (a) Allotment; Pell Grant Basis.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-half that amount as the number of Pell Grant recipients in attendance at such institution at the end of the school year preceding the beginning of that fiscal year bears to the total number of Pell Grant recipients at all part B institutions.

(b) Allotment; Graduates Basis.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth that amount as the number of graduates for such school year at such institution bears to the total number of graduates for such school year at all part B institutions.

(c) Allotment; Graduate and Professional Student Basis.—From the amounts appropriated to carry out this part for any fiscal year, the Secretary shall allot to each part B institution a sum which bears the same ratio to one-fourth of that amount as the percentage of graduates per institution, who are admitted to and in attendance at a graduate or professional school in a degree program in disciplines in which Blacks are underrepresented, bears to the percentage of such graduates per institution for all part B institutions.

(d) Minimum Allotment.—(1) Notwithstanding subsections (a), (b), and (c), the amount allotted to each part B institution under this section shall not be less than $350,000.

(2) If the amount appropriated pursuant to section 360(a)(2)(A) for any fiscal year is not sufficient to pay the minimum allotment required by paragraph (1) of this subsection to all part B institutions, the amount of such minimum allotments shall be ratably reduced. If additional sums become available for such fiscal year, such reduced allocation shall be increased on the same basis as they were reduced (until the amount allotted equals the minimum allotment required by paragraph (1)).

(e) Reallotment.—The amount of any part B institution's allotment under subsection (a), (b), (c), or (d) for any fiscal year which the Secretary determines will not be required for such institution for the period such allotment is available shall be available for reallotment from time to time on such date during such period as the Secretary may determine to other part B institutions in proportion to the original allotment to such other institutions under this section for such fiscal year.

(f) Special Merger Rule.—(1) The Secretary shall permit any eligible institution for a grant under part B in any fiscal year prior to the fiscal year 1986 to apply for a grant under this part if the eligible institution has merged with another institution of higher education which is not so eligible or has merged with an eligible institution.

(2) The Secretary may establish such regulations as may be necessary to carry out the requirement of paragraph (1) of this subsection.

(g) SPECIAL RULE FOR CERTAIN DISTRICT OF COLUMBIA ELIGIBLE INSTITUTIONS.—In any fiscal year that the Secretary determines that Howard University or the University of the District of Columbia will receive an allotment under subsections (b) and (c) of this section which is not in excess of amounts received by Howard University under the Act of March 2, 1867 (14 Stat. 438; 20 U.S.C. 123), relating to annual authorization of appropriations for Howard University, or by the University of the District of Columbia under the District of Columbia Self-Government and Governmental Reorganization Act (87 Stat. 774) for such fiscal year, then Howard University and the University of the District of Columbia, as the case may be, shall be ineligible to receive an allotment under this section.

(20 U.S.C. 1063) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1395; amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1296; amended October 21, 1986, P.L. 99-509, sec. 7007, 100 Stat. 1950.

APPLICATIONS

SEC. 325. (a) CONTENTS.—No part B institution shall be entitled to its allotment of Federal funds for any grant under section 324 for any period unless that institution meets the requirements of subparagraphs (C), (D), and (E) of section 312(b)(1) and submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this Act will be used for the purposes set forth in section 323; and

(2) provide for making an annual report to the Secretary and provide for—

(A) conducting, except as provided in subparagraph (B), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(B) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of subparagraph (A) for the period covered by such audit.

(b) APPROVAL.—The Secretary shall approve any application which meets the requirements of subsection (a) and shall not disapprove any application submitted under this part, or any modification thereof, without first affording such institution reasonable notice and opportunity for a hearing.

(20 U.S.C. 1063a) Enacted October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1296; amended June 3, 1987, P.L. 100-50, sec. 2(a)(8), 101 Stat. 335.

PROFESSIONAL OR GRADUATE INSTITUTIONS

Sec. 326. (a) General Authorization.—(1) Subject to the availability of funds appropriated to carry out this section, the Secretary shall award program grants to each of the postgraduate institutions listed in subsection (e) that is determined by the Secretary to be making a substantial contribution to the legal, medical, dental, veterinary, or other graduate education opportunities for Black Americans.

(2) No grant in excess of $500,000 may be made under this section unless the postgraduate institution provides assurances that 50 percent of the cost of the purposes for which the grant is made will be paid from non-Federal sources except that the Morehouse School of Medicine shall receive at least $3,000,000.

(b) Duration.—Grants shall be made for a period not to exceed 5 years. No more than two 5-year grants (for a period of not more than 10 years) may be made to any one undergraduate or postgraduate institution.

(c) Uses of Funds.—A grant under this section may be used for—

(1) any of the purposes enumerated under section 323;

(2) to establish or improve a development office to strengthen and increase contributions from alumni and the private sector; and

(3) to assist in the establishment or maintenance of an institutional endowment to facilitate financial independence pursuant to section 332 of this title.

(d) Application.—Any institution eligible for a grant under this section shall submit an application which—

(1) demonstrates how the grant funds will be used to improve graduate educational opportunities for Black and low-income students, and lead to greater financial independence; and

(2) provides, in the case of applications for grants in excess of $500,000, the assurances required by subsection (a)(2) and specifies the manner in which the eligible institution is going to pay the non-Federal share of the cost of the application.

(e) Eligible Professional or Graduate Institutions.—Independent professional or graduate institutions eligible for grants under subsection (a) include—

(1) Morehouse School of Medicine;
(2) Meharry Medical School;
(3) Charles R. Drew Postgraduate Medical School;
(4) Atlanta University; and
(5) Tuskegee Institute School of Veterinary Medicine.

(20 U.S.C. 1063b) Enacted October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1297; amended June 3, 1987, P.L. 100-50, sec. 2(a)(9)-(10), 101 Stat. 335.

REPORTING AND AUDIT REQUIREMENTS

Sec. 327. (a) Recordkeeping.—Each recipient of a grant under this part shall keep such records as the Secretary shall prescribe, including records which fully disclose—

(1) the amount and disposition by such recipient of the proceeds of such assistance;

(2) the cost of the project or undertaking in connection with which such assistance is given or used;

(3) the amount of that portion of the cost of the project or undertaking supplied by other sources; and

(4) such other records as will facilitate an effective audit.

(b) Repayment of Unexpended Funds.—Any funds paid to an institution and not expended or used for the purposes for which the funds were paid within 10 years following the date of the initial grant awarded to an institution under part B of this title shall be repaid to the Treasury of the United States.

(20 U.S.C. 1063c) Enacted October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1298; amended June 3, 1987, P.L. 100-50, sec. 2(a)(11), 101 Stat. 335.

Part C—Challenge Grants for Institutions Eligible for Assistance Under Part A or Part B

ESTABLISHMENT OF CHALLENGE GRANT PROGRAM

Sec. 331. (a) General Authorization; Eligibility.—(1) From the sums available under section 360(a)(3) for each fiscal year, the Secretary may award a challenge grant to each institution—

(A) which is an eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelor's degree;

(B) which is an institution under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

(C) which is an institution that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

(2) The Secretary may waive the requirements set forth in subparagraphs (A) and (B) of paragraph (1) with respect to a postgraduate degree in the case of any institution otherwise eligible under such paragraph for a challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.

(b) Uses of Funds.—A grant under this section may be used by an institution eligible for a grant under this section to assist the institution to achieve financial independence.

(c) Duration of Grant.—The Secretary may make a grant under this section for a period of not more than 5 years, subject to annual appropriations.

(d) Contents of Applications.—Any institution eligible for a challenge grant under this section may apply for such a grant under section 351, except that the application for the purpose of this part shall—

(1) provide assurances that funds will be available to the applicant within one year to match funds that the Secretary is requested to make available to the institution as a challenge grant;

(2) in the case of an application by a public institution, contain the recommendations of an appropriate State agency responsible for higher education in the State, or provide evidence

that the institution requested the State agency to comment but the State agency failed to comment; and

(3) demonstrate how challenge grant funds will be used to achieve financial independence.

(e) Notice of Approval.—Not later than April 1 of the fiscal year preceding the fiscal year in which any grant is to be made under this section, the Secretary shall determine which institutions will receive challenge grants under such section and notify the institutions of the amount of the grant.

(f) Preference.—In approving applications for such grants, preference shall be given to institutions which are receiving, or have received, grants under part A or part B of this title.

(20 U.S.C. 1064) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1395; amended August 13, 1981, P.L. 97-35, sec. 516(c)(2), 95 Stat. 447; amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1298.

ENDOWMENT CHALLENGE GRANTS

Sec. 332. (a) Purpose; Definitions.—(1) The purpose of this section is to establish a program to provide matching grants to eligible institutions of higher education in order to establish or increase endowment funds at such institutions, to provide additional incentives to promote fund raising activities by such institutions, and to foster increased independence and self-sufficiency at such institutions.

(2) For the purpose of this section:

(A) The term "endowment fund" means a fund established by State law, by an institution of higher education, or by a foundation which is exempt from taxation and is maintained for the purpose of generating income for the support of the institution, but which shall not include real estate.

(B) The term "endowment fund corpus" means an amount equal to the grant or grants awarded under this section plus an amount equal to such grant or grants provided by the institution.

(C) The term "endowment fund income" means an amount equal to the total value of the endowment fund established under this section minus the endowment fund corpus.

(b) Grants Authorized.—(1) From sums available for this section under section 360, the Secretary is authorized to award challenge grants to eligible institutions of higher education to establish or increase an endowment fund at such institution. Such grants shall be made only to eligible institutions described in paragraph (4) whose applications have been approved pursuant to subsection (g).

(2)(A) Except as provided in subparagraph (B), no institution shall receive a grant under this section, unless such institution has deposited in its endowment fund established under this section an amount equal to the amount of such grant. The source of funds for this institutional match shall not include Federal funds or funds from an existing endowment fund.

(B) In any fiscal year in which the appropriations for this part exceeds $10,000,000, the Secretary may make a grant under this part to an eligible institution of higher education if such institution—

(i) has deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant; and

(ii) applies for a grant in an amount exceeding $1,000,000.

(C) An eligible institution of higher education that is awarded a grant under this section shall not be eligible to reapply for a grant under this section during the 10 years immediately following the period that it received such grant.

(3) The period of a grant under this section shall be not more than 20 years. During the grant period, an institution may not withdraw or expend any of the endowment fund corpus. After the termination of the grant period, an institution may use the endowment fund corpus plus any endowment fund income for any educational purpose.

(4)(A) An institution of higher education is eligible to receive a grant under this section if it is an eligible institution as described in section 331(a)(1).

(B) No institution shall be ineligible for a challenge grant under this section for a fiscal year by reason of the previous receipt of such a grant but no institution shall be eligible to receive such a grant for more than 2 fiscal years out of any period of 5 consecutive fiscal years.

(5) Except as provided in paragraph (2)(B), a challenge grant under this section to an eligible institution year[1] shall—

(A) not be less than $50,000 for any fiscal year; and

(B) not be more than (i) $250,000 for fiscal year 1987; or (ii) $500,000 for fiscal year 1988 or any succeeding fiscal year.

(6)(A) An eligible institution may designate a foundation, which was established for the purpose of raising money for the institution, as the recipient of the grant awarded under this section.

(B) The Secretary shall not award a grant to a foundation on behalf of an institution unless—

(i) the institution assures the Secretary that the foundation is legally authorized to receive the endowment fund corpus and is legally authorized to administer the fund in accordance with this section and any implementing regulation;

(ii) the foundation agrees to administer the fund in accordance with the requirements of this section and any implementing regulation; and

(iii) the institution agrees to be liable for any violation by the foundation of the provisions of this section and any implementing regulation, including any monetary liability that may arise as a result of such violation.

(c) GRANT AGREEMENT; ENDOWMENT FUND PROVISIONS.—(1) An institution awarded a grant under this section shall enter into an agreement with the Secretary containing satisfactory assurances that it will (A) immediately comply with the matching requirements of subsection (b)(2), (B) establish an endowment fund independent of any other such fund of the institution, (C) invest the endowment fund corpus, and (D) meet the other requirements of this section.

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[1] So in original.

(2)(A) An institution shall invest the endowment fund corpus and endowment fund income in low-risk securities in which a regulated insurance company may invest under the law of the State in which the institution is located such as a federally insured bank savings account or comparable interest-bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(B) The institution, in investing the endowment fund established under this section, shall exercise the judgment and care, under the circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of such person's own affairs.

(3)(A) An institution may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of such college, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, and technical assistance.

(B)(i) Except as provided in clause (ii), an institution may not spend more than 50 percent of the total aggregate endowment fund income earned prior to the time of expenditure.

(ii) The Secretary may permit an institution to spend more than 50 percent of the endowment fund income notwithstanding clause (i) if the institution demonstrates such an expenditure is necessary because of (I) a financial emergency, such as a pending insolvency or temporary liquidity problem; (II) a life-threatening situation occasioned by a natural disaster or arson; or (III) any other unusual occurrence or exigent circumstance.

(d) REPAYMENT PROVISIONS.—(1) If at any time an institution withdraws part of the endowment fund corpus, the institution shall repay to the Secretary an amount equal to 50 percent of the withdrawn amount, which represents the Federal share, plus income earned thereon. The Secretary may use such repaid funds to make additional challenge grants, or to increase existing endowment grants, to other eligible institutions.

(2) If an institution expends more of the endowment fund income than is permitted under subsection (c), the institution shall repay the Secretary an amount equal to 50 percent of the amount improperly expended (representing the Federal share thereof). The Secretary may use such repaid fund to make additional challenge grants, or to increase existing challenge grants, to other eligible institutions.

(e) AUDIT INFORMATION.—An institution receiving a grant under this section shall provide to the Secretary (or a designee thereof) such information (or access thereto) as may be necessary to audit or examine expenditures made from the endowment fund corpus or income in order to determine compliance with this section.

(f) SELECTION CRITERIA.—In selecting eligible institutions for grants under this section for any fiscal year, the Secretary shall—

(1) give priority to an applicant which is a recipient of a grant made under part A or B (or section 355) of this title during the academic year in which the applicant is applying for a grant under this section;

(2) give priority to an applicant with a greater need for such a grant, based on the current market value of the applicant's

existing endowment in relation to the number of full-time equivalent students enrolled at such institution; and

(3) consider—

(A) the effort made by the applicant to build or maintain its existing endowment fund; and

(B) the degree to which an applicant proposes to match the grant with nongovernmental funds.

(g) Application.—Any institution which is eligible for assistance under this section may submit to the Secretary a grant application at such time, in such form, and containing such information as the Secretary may prescribe. Subject to the availability of appropriations to carry out this section and consistent with the requirement of subsection (f), the Secretary may approve an application for a grant if an institution, in its application, provides adequate assurances that it will comply with the requirements of this section.

(h) Termination and Recovery Provisions.—(1) After notice and an opportunity for a hearing, the Secretary may terminate and recover a grant awarded under this section if the grantee institution—

(A) expends portions of the endowment fund corpus or expends more than the permissible amount of the endowment funds income as prescribed in subsection (c)(3);

(B) fails to invest the endowment fund in accordance with the investment standards set forth in subsection (c)(2); or

(C) fails to properly account to the Secretary concerning the investment and expenditures of the endowment funds.

(2) If the Secretary terminates a grant under paragraph (1), the grantee shall return to the Secretary an amount equal to the sum of each original grant under this section plus income earned thereon. The Secretary may use such repaid funds to make additional endowment grants, or to increase existing challenge grants, to other eligible institutions under this part.

(20 U.S.C. 1065) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1396; amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1299; amended June 3, 1987, P.L. 100-50, sec. 2(a)(12), 101 Stat. 336.

Part D—General Provisions

APPLICATIONS FOR ASSISTANCE

Sec. 351. (a) Application Required; Approval.—Any institution which is eligible for assistance under this title shall submit to the Secretary an application for assistance at such time, in such form, and containing such information, as may be necessary to enable the Secretary to evaluate its need for assistance. Subject to the availability of appropriations to carry out this title, the Secretary may approve an application for a grant under this title if the application meets the requirements of subsection (b) and shows that the applicant is eligible for assistance in accordance with the part of this title under which the assistance is sought.

(b) Contents.—An institution, in its application for a grant, shall—

(1) set forth, or describe how the institution (other than an institution applying under part C) will develop, a comprehensive development plan to strengthen the institution's academic

quality and institutional management, and otherwise provide for institutional self-sufficiency and growth (including measurable objectives for the institution and the Secretary to use in monitoring the effectiveness of activities under this title);

(2) set forth policies and procedures to ensure that Federal funds made available under this title for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purposes of section 311(b) or 323, and in no case supplant those funds;

(3) set forth policies and procedures for evaluating the effectiveness in accomplishing the purpose of the activities for which a grant is sought under this title;

(4) provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds made available to the applicant under this title;

(5) provide (A) for making such reports, in such form and containing such information, as the Secretary may require to carry out the functions under this title, including not less than one report annually setting forth the institution's progress toward achieving the objectives for which the funds were awarded, and (B) for keeping such records and affording such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports;

(6) provide that the institution will comply with the limitations set forth in section 357;

(7) describe in a comprehensive manner any proposed project for which funds are sought under the application and include—

(A) a description of the various components of the proposed project, including the estimated time required to complete each such component;

(B) in the case of any development project which consists of several components (as described by the applicant pursuant to subparagraph (A)), a statement identifying those components which, if separately funded, would be sound investments of Federal funds and those components which would be sound investments of Federal funds only if funded under this title in conjunction with other parts of the development project (as specified by the applicant);

(C) an evaluation by the applicant of the priority given any proposed project for which funds are sought in relation to any other projects for which funds are sought by the applicant under this title, and a similar evaluation regarding priorities among the components of any single proposed project (as described by the applicant pursuant to subparagraph (A));

(D) information explaining the manner in which the proposed project will assist the applicant to prepare for the critical financial problems that all institutions of higher education will face during the subsequent decade as a result of declining enrollment, and other problems;

(E) a detailed budget showing the manner in which funds for any proposed project would be spent by the applicant; and

(F) a detailed description of any activity which involves the expenditure of more than $25,000, as identified in the budget referred to in subparagraph (E); and

(8) include such other information as the Secretary may prescribe.

(c) PRIORITY CRITERIA PUBLICATION REQUIRED.—The Secretary shall publish in the Federal Register, pursuant to chapter 5 of title 5, United States Code, all policies and procedures required to exercise the authority set forth in subsection (a). No other criteria, policies, or procedures shall apply.

(d) ELIGIBILITY DATA.—The Secretary shall use the most recent and relevant data concerning the number and percentage of students receiving need-based assistance under title IV of this Act in making eligibility determinations under section 312 and shall advance the base-year forward following each annual grant cycle.

(20 U.S.C. 1066) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1396; renumbered and amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1302; amended June 3, 1987, P.L. 100-50, sec. 2(a)(13), 101 Stat. 336.

WAIVER AUTHORITY AND REPORTING REQUIREMENT

SEC. 352. (a) WAIVER REQUIREMENTS; NEED-BASED ASSISTANCE STUDENTS.—The Secretary shall waive the requirements set forth in section 312(b)(1)(A) in the case of an institution—

(1) which is extensively subsidized by the State in which it is located and charges low or no tuition;

(2) which serves a substantial number of low-income students as a percentage of its total student population;

(3) which is contributing substantially to increasing higher education opportunities for educationally disadvantaged, underrepresented, or minority students, who are low-income individuals;

(4) which is substantially increasing higher educational opportunities for individuals in rural or other isolated areas which are unserved by postsecondary institutions;

(5) located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians; or

(6) wherever located, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of Black Americans, Hispanic Americans, Native Americans, Asian Americans, or Pacific Islanders, including Native Hawaiians.

(b) WAIVER DETERMINATIONS; EXPENDITURES.—(1) The Secretary may waive the requirements set forth in section 312(b)(1)(B) if the Secretary determines, based on persuasive evidence submitted by the institution, that the institution's failure to meet that criterion is due to factors which, when used in the determination of compliance with such criterion, distort such determination, and that the institution's designation as an eligible institution under part A is otherwise consistent with the purposes of such parts.

(2) The Secretary shall submit to the Congress every other year a report concerning the institutions which, although not satisfying the criterion contained in section 312(b)(1)(B), have been deter-

mined to be eligible institutions under part A institutions which enroll significant numbers of Black American, Hispanic, Native American, Asian American, or Native Hawaiian students under part A, as the case may be. Such report shall—

(A) identify the factors referred to in paragraph (1) which were considered by the Secretary as factors that distorted the determination of compliance with subparagraphs (A) and (B) of section 312(b)(1); and

(B) contain a list of each institution determined to be an eligible institution under part A including a statement of the reasons for each such determination.

(3) The Secretary may waive the requirement set forth in section 312(b)(1)(E) in the case of an institution located on or near an Indian reservation or a substantial population of Indians, if the Secretary determines that the waiver will substantially increase higher education opportunities appropriate to the needs of American Indians.

(20 U.S.C. 1067) Enacted October 3, 1980, P.L. 96–374, sec. 301, 94 Stat. 1398; renumbered and amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1304; amended June 3, 1987, P.L. 100–50, sec. 2(a)(14)–(15), 101 Stat. 336.

APPLICATION REVIEW PROCESS

Sec. 353. (a) Review Panel.—(1) All applications submitted under this title by institutions of higher education shall be read by a panel of readers composed of individuals selected by the Secretary. The Secretary shall assure that no individual assigned under this section to review any application has any conflict of interest with regard to the application which might impair the impartiality with which the individual conducts the review under this section.

(2) The Secretary shall take care to assure that representatives of historically and predominantly Black colleges, Hispanic institutions, Native American colleges and universities, and institutions with substantial numbers of Hispanics, Native Americans, Asian Americans, and Native American Pacific Islanders (including Native Hawaiians) are included as readers.

(3) All readers selected by the Secretary shall receive thorough instruction from the Secretary regarding the evaluation process for applications submitted under this title and consistent with the provisions of this title, including—

(A) explanations and examples of the types of activities referred to in section 311(b) that should receive special consideration for grants awarded under part A and of the types of activities referred to in section 323 that should receive special consideration for grants awarded under part B;

(B) an enumeration of the factors to be used to determine the quality of applications submitted under this title; and

(C) an enumeration of the factors to be used to determine whether a grant should be awarded for a project under this title, the amount of any such grant, and the duration of any such grant.

(b) Recommendations of Panel.—In awarding grants under this title, the Secretary shall take into consideration the recommendations of the panel made under subsection (a).

(c) NOTIFICATION.—Not later than June 30 of each year, the Secretary shall notify each institution of higher education making an application under this title of—

(1) the scores given the applicant by the panel pursuant to this section;

(2) the recommendations of the panel with respect to such application; and

(3) the reasons for the decision of the Secretary in awarding or refusing to award a grant under this title, and any modifications, if any, in the recommendations of the panel made by the Secretary.

(20 U.S.C. 1068) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1398; renumbered and amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1305.

COOPERATIVE ARRANGEMENTS

SEC. 354. (a) GENERAL AUTHORITY.—The Secretary may make grants to encourage cooperative arrangements—

(1) with funds available to carry out part A, between institutions eligible for assistance under part A and between such institutions and institutions not receiving assistance under this title; or

(2) with funds available to carry out part B, between institutions eligible for assistance under part B and institutions not receiving assistance under this title;

for the activities described in section 311(b) or section 323, as the case may be, so that the resources of the cooperating institutions might be combined and shared to achieve the purposes of such parts and avoid costly duplicative efforts and to enhance the development of part A and part B eligible institutions.

(b) PRIORITY.—The Secretary shall give priority to grants for the purposes described under subsection (a) whenever the Secretary determines that the cooperative arrangement is geographically and economically sound or will benefit the applicant institution.

(c) DURATION.—Grants to institutions having a cooperative arrangement may be made under this section for a period as determined under section 313 or section 323.

(20 U.S.C. 1069) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1399; renumbered and amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1305.

SPECIAL PAYMENTS RULES

SEC. 355. (a) HISTORICALLY BLACK COLLEGE PAYMENTS RULE.—Any historically Black college or university which, prior to September 30, 1986, received a grant under part A or part B of this title as in effect prior to such date and continues to receive a grant under such part A or part B for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid from amounts appropriated to carry out part B of this title.

(b) OTHER INSTITUTIONS SPECIAL PAYMENT RULE.—Each eligible institution other than an historically Black college or university which received a grant under part A or part B of this title as in effect prior to such date and continues to receive a grant under such part A or part B for any fiscal year beginning after September 30, 1986, and ending prior to October 1, 1991, shall be paid out of appropriations made pursuant to part A.

(c) SPECIAL RULE FOR UNOBLIGATED PART A AND PART B FUNDS.—In any fiscal year in which amounts appropriated pursuant to part A or part B for this title are available for obligation in the year succeeding the year in which the funds were appropriated, the Secretary shall make such funds available for grants under section 332, relating to the endowment challenge grant program, for the same type of institution for which the grants would have been made had the funds been paid pursuant to such part A or part B.

(20 U.S.C. 1069a) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1399; renumbered and amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1306; amended June 3, 1987, P.L. 100-50, sec. 2(a)(15)-(16), 101 Stat. 336.

ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS

SEC. 356. (a) ASSISTANCE ELIGIBILITY.—Each institution which the Secretary determines to be an institution eligible under part A or an institution eligible under part B shall be eligible for waivers in accordance with subsection (b).

(b) WAIVER APPLICABILITY.—(1) Subject to, and in accordance with, regulations promulgated for the purpose of this section, in the case of any application by an institution referred to in subsection (a) for assistance under any programs specified in paragraph (2), the Secretary is authorized, if such application is otherwise approvable, to waive any requirement for a non-Federal share of the cost of the program or project, or, to the extent not inconsistent with other law, to give, or require to be given, priority consideration of the application in relation to applications from other institutions.

(2) The provisions of this section shall apply to any program authorized by title II, IV, VII, or VIII of this Act.

(c) LIMITATION.—The Secretary shall not waive, under subsection (b), the non-Federal share requirement for any program for applications which, if approved, would require the expenditure of more than 10 percent of the appropriations for the program for any fiscal year.

(20 U.S.C. 1069b) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1400; renumbered and amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1306.

LIMITATIONS

SEC. 357. The funds appropriated under section 360 may not be used—

(1) for a school or department of divinity or any religious worship or sectarian activity;

(2) for an activity that is inconsistent with a State plan for desegregation of higher education applicable to such institution;

(3) for an activity that is inconsistent with a State plan of higher education applicable to such institution; or

(4) for purposes other than the purposes set forth in the approved application under which the funds were made available to the institution.

(20 U.S.C. 1069c) Enacted October 3, 1980, P.L. 96-374, sec. 301, 94 Stat. 1400; amended Sept. 26, 1983, P.L. 98-95, sec. 3, 97 Stat. 711; amended June 12, 1984, P.L. 98-312, sec. 1, 98 Stat. 233; renumbered and amended October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1307.

PENALTIES

SEC. 358. Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of Federal financial assistance or grant pursuant to this title embezzles, willfully misapplies, steals, or obtains by fraud any of the funds which are the subject of such grant or assistance, shall be fined not more than $10,000 or imprisoned for not more than 2 years, or both.

(20 U.S.C. 1069d) Enacted October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1307.

CHALLENGE GRANT APPLICATION REQUIRED

SEC. 359. The Secretary shall not make a Challenge Grant to any grantee institution under section 313(a)(2) or under part B which has not applied for funds under part C and complied with section 332(a)(1) of part C after September 30, 1989.

(20 U.S.C. 1069e) Enacted October 17, 1986, P.L. 99-498, sec. 301(a), 100 Stat. 1307.

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 360. (a) AUTHORIZATIONS.—(1) There are authorized to be appropriated to carry out part A $120,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(2)(A) There are authorized to be appropriated to carry out part B (other than section 326) $100,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 326 $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(3) There are authorized to be appropriated to carry out part C $20,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(4) Funds appropriated for part C shall remain available until expended.

(b) USE OF MULTIPLE YEAR AWARDS.—In the event of a multiple year award to any institution under this title, the Secretary shall make funds available for such award from funds appropriated for this title for the fiscal year in which such funds are to be used by the recipient.

(c) RESERVATIONS.—If the amount appropriated under subsection (a)(1) for part A for any fiscal year beginning after September 30, 1986, equals or exceeds the amount appropriated for such part for fiscal year 1986—

(1) the Secretary shall, for such fiscal year, make available for use for the purposes of part A to institutions that are junior or community colleges not less than $51,400,000; and

(2) the Secretary shall, for such fiscal year—

(A) allocate 25 percent of the excess (above the amount appropriated for part A for fiscal year 1986) among eligible institutions with the highest percentages of students who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

(B) allocate 75 percent of such excess among other eligible institutions.

(d) RATABLE REDUCTION IN FISCAL YEARS IN WHICH AMOUNTS APPROPRIATED ARE INSUFFICIENT.—In any fiscal year in which the sums appropriated for part A are insufficient to make the reservations required by subsection (c) of this section, the Secretary shall ratably reduce the amount of the reservation.

(20 U.S.C. 1069f) Enacted October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1307.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

STATEMENT OF PURPOSE; PROGRAM AUTHORIZATION

SEC. 401. (a) PURPOSE.—It is the purpose of this part, to assist in making available the benefits of postsecondary education to eligible students (defined in accordance with section 484) in institutions of higher education by—

(1) providing basic educational opportunity grants to all eligible students;

(2) providing supplemental educational opportunity grants to those students who demonstrate financial need;

(3) providing for payments to the States to assist them in making financial aid available to such students;

(4) providing for special programs and projects designed (A) to identify and encourage qualified youths with financial or cultural need with a potential for postsecondary education, (B) to prepare students from low-income families for postsecondary education, and (C) to provide remedial (including remedial language study) and other services to students; and

(5) providing assistance to institutions of higher education.

(b) SECRETARY REQUIRED TO CARRY OUT PURPOSES.—The Secretary shall, in accordance with subparts 1 through 8, carry out programs to achieve the purposes of this part.

(20 U.S.C. 1070) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 247–248; amended June 23, 1972, P.L. 92–318, sec. 1001(c), 86 Stat. 381; amended October 3, 1980, P.L. 96–374, sec. 401, 1391, 94 Stat. 1401, 1503; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1308.

SUBPART 1—BASIC EDUCATIONAL OPPORTUNITY GRANTS

BASIC EDUCATIONAL OPPORTUNITY GRANTS: AMOUNT AND DETERMINATIONS; APPLICATIONS

SEC. 411. (a) PROGRAM AUTHORITY AND METHOD OF DISTRIBUTION.—(1) The Secretary shall, during the period beginning July 1, 1972, and ending September 30, 1992, pay to each eligible institution such sums as may be necessary to pay to each eligible student (defined in accordance with section 484) for each academic year during which that student is in attendance at an institution of higher education, as an undergraduate, a basic grant in the amount for which that student is eligible, as determined pursuant to paragraph (2). Not less than 85 percent of such sums shall be advanced to eligible institutions prior to the start of each payment period and shall be based upon an amount requested by the institution as needed to pay eligible students.

(2) Nothing in this section shall be interpreted to prohibit the Secretary from paying directly to students, in advance of the beginning of the academic term, an amount for which they are eligible, in cases where the eligible institution elects not to participate in the disbursement system required by paragraph (1).

(3) Basic grants made under this subpart shall be known as "Pell Grants".

(b) PURPOSE AND AMOUNT OF GRANTS.—(1) The purpose of this subpart is to provide a basic grant that (A) as determined under paragraph (2), will meet 60 percent of a student's cost of attendance (as defined in section 411F); and (B) in combination with reasonable parental or independent student contribution and supplemented by the programs authorized under subparts 2 and 3 of this part, will meet 75 percent of a student's cost of attendance (as defined in section 472), unless the institution determines that a greater amount of assistance would better serve the purposes of section 401.

(2)(A) The amount of the basic grant for a student eligible under this part shall be—

(i) $2,300 for academic year 1987-1988,
(ii) $2,500 for academic year 1988-1989,
(iii) $2,700 for academic year 1989-1990,
(iv) $2,900 for academic year 1990-1991, and
(v) $3,100 for academic year 1991-1992,

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.

(B) In any case where a student attends an institution of higher education on less than a full-time basis during any academic year, the amount of the basic grant to which that student is entitled shall be reduced in proportion to the degree to which that student is not so attending on a full-time basis, in accordance with a schedule of reductions established by the Secretary for the purposes of this division. Such schedule of reductions shall be established by regulation and published in the Federal Register in accordance with section 482 of this Act.

(3) The amount of a basic grant to which a student is entitled under this subpart for any academic year shall not exceed 60 percent of the cost of attendance (as defined in section 411F) at the institution at which the student is in attendance for that year.

(4) No basic grant under this subpart shall exceed the difference between the expected family contribution for a student and the cost of attendance (as defined in section 411F) at the institution at which that student is in attendance. If, with respect to any student, it is determined that the amount of a basic grant plus the amount of the expected family contribution for that student exceeds the cost of attendance for that year, the amount of the basic grant shall be reduced until the combination of expected family contribution and the amount of the basic grant does not exceed the cost of attendance at such institution.

(5) No basic grant shall be awarded to a student under this subpart if the amount of that grant for that student as determined under this subsection for any academic year is less than $200.

(6) No basic grant shall be awarded under this subpart to any student who is attending on a less than half-time basis—

(A) from funds appropriated for fiscal years before fiscal year 1989;

(B) from funds appropriated for fiscal year 1989 or 1990, unless the expected family contribution for such student is less than or equal to zero; or

(C) from funds appropriated for fiscal year 1991, unless the expected family contribution for such student is less than or equal to $200.

(7) No basic grant shall be awarded under this subpart from funds appropriated for fiscal year 1989 to students who are attending on a less than half-time basis if awarding basic grants to such students would cause basic grants to other students to be reduced pursuant to subsection (g). The provisions of this paragraph may not be waived unless enacted in express limitation of this paragraph.

(c) PERIOD OF ELIGIBILITY FOR GRANTS.—(1) The period during which a student may receive basic grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student at the institution at which the student is in attendance except that—

(A) such period may not exceed the full-time equivalent of—

(i) 5 academic years in the case of an undergraduate degree or certificate program normally requiring 4 years or less;

(ii) 6 academic years in the case of an undergraduate degree or certificate program normally requiring more than 4 years;

(B) any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of subparagraph (A); and

(C) an institution of higher education at which the student is in attendance may waive subparagraph (A) for undue hardship based on—

(i) the death of a relative of the student;

(ii) the personal injury or illness of the student; or

(iii) special circumstances as determined by the institution.

(2) Nothing in this section shall exclude from eligibility courses of study which are noncredit or remedial in nature (including courses in English language instruction) which are determined by the institution to be necessary to help the student be prepared for the pursuit of a first undergraduate baccalaureate degree or certificate or, in the case of courses in English language instruction, to be necessary to enable the student to utilize already existing knowledge, training, or skills.

(3) No student is entitled to receive Pell Grant payments concurrently from more than one institution or from the Secretary and an institution.

(d) APPLICATIONS FOR GRANTS.—(1) The Secretary shall from time to time set dates by which students shall file applications for basic grants under this subpart.

(2) Each student desiring a basic grant for any year shall file an application therefor containing such information and assurances as the Secretary may deem necessary to enable the Secretary to carry out the functions and responsibilities of this subpart.

(e) DISTRIBUTION OF GRANTS TO STUDENTS.—Payments under this section shall be made in accordance with regulations promulgated by the Secretary for such purpose, in such manner as will best accomplish the purpose of this section. Any disbursement allowed to be made by crediting the student's account shall be limited to tuition and fees and, in the case of institutionally owned housing, room and board. The student may elect to have the institution provide other such goods and services by crediting the student's account.

(f) CALCULATION OF ELIGIBILITY.—(1) Each contractor processing applications for awards under this subpart (including a central processor, if any, designated by the Secretary) shall, in a timely manner, furnish to the student financial aid administrator (at each institution of higher education which a student awarded a basic grant under this subpart is attending) an estimate of the eligibility index for each such student. Each such student financial aid administrator shall—

(A) examine and assess the data used to calculate the eligibility index of the student furnished pursuant to this subsection;

(B) recalculate the eligibility index of the student if there has been a change in circumstances of the student or in the data submitted;

(C) make the award to the student in the correct amount; and

(D) after making such award report the corrected data to such contractor and to a central processor (if any) designated by the Secretary for a confirmation of the correct computation of amount of the eligibility index for each such student.

(2) Whenever a student receives an award under this subpart that, due to recalculation errors by the institution of higher education, is in excess of the amount which the student is entitled to receive under this subpart, such institution of higher education shall pay to the Secretary the amount of such excess unless such excess can be resolved in a subsequent disbursement to the institution.

(3) Each contractor processing applications for awards under this subpart shall for each academic year after academic year 1986–1987 prepare and submit a report to the Secretary on the correctness of the computations of amount of the eligibility index, and on the accuracy of the questions on the application form under this subpart for the previous academic year for which the contractor is responsible. The Secretary shall transmit the report, together with the comments and recommendations of the Secretary, to the Committee on Appropriations and the Committee on Labor and Human Resources of the Senate and the Committee on Appropriations and the Committee on Education and Labor of the House of Representatives.

(g) Adjustments for Insufficient Appropriations.—(1) If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b), the amount paid with respect to each entitlement shall be—

(A) the full amount for any student whose expected family contribution is $200 or less, or

(B) a percentage of that entitlement, as determined in accordance with a schedule of reductions established by the Secretary for this purpose, for any student whose expected family contribution is more than $200.

(2) Any schedule established by the Secretary for the purpose of paragraph (1)(B) of this subsection shall contain a single linear reduction formula in which the percentage reduction increases uniformly as the entitlement decreases, and shall provide that if an entitlement is reduced to less than $100, no payment shall be made.

(h) Use of Excess Funds.—(1) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by 15 percent or less, then all of the excess funds shall remain available for making payments under this subpart during the next succeeding fiscal year.

(2) If, at the end of a fiscal year, the funds available for making payments under this subpart exceed the amount necessary to make the payments required under this subpart to eligible students by more than 15 percent, then all of such funds shall remain available for making such payments but payments may be made under this paragraph only with respect to entitlements for that fiscal year.

(i) Noncontractor Status of Institutions.—Any institution of higher education which enters into an agreement with the Secretary to disburse to students attending that institution the amounts those students are eligible to receive under this subpart shall not be deemed, by virtue of such agreement, a contractor maintaining a system of records to accomplish a function of the Secretary.

(20 U.S.C. 1070a) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 247-251; amended June 30, 1976, P.L. 94-328, sec. 2(f), 90 Stat. 727; amended October 12, 1976, P.L. 94-482, sec. 121, 90 Stat. 2091, 2092, 2093, 2094; amended June 15, 1977, P.L. 95-43, sec. 1(a)(5)(A), (a)(5)(B), 91 Stat. 213; amended November 1, 1978, P.L. 95-566, sec. 2, 92 Stat. 2402, 2403; amended October 3, 1980, P.L. 96-374, sec. 402, 1391, 94 Stat. 1401-1404, 1503; amended October 13, 1982, P.L. 97-301, sec. 8(a), 96 Stat. 1402; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1309; amended June 3, 1987, P.L. 100-50, sec. 3(a), 101 Stat. 337.

FAMILY CONTRIBUTION SCHEDULE FOR PELL GRANTS; DATA ELEMENTS

Sec. 411A. (a) General Rule for Determination of Expected Family Contribution.—(1) The expected family contribution—

(A) for a dependent student shall be determined in accordance with section 411B,

(B) for an independent student with dependents other than a spouse shall be determined in accordance with section 411C, and

(C) for a single independent student or a married independent student without other dependents shall be determined in accordance with section 411D.

(2) The following data elements are considered in determining the expected family contribution:

(A) the effective income of (i) the student and the student's spouse; and (ii) the student's parents, in the case of a dependent student;

(B) the number of family members in the household;

(C) the number of family members in the household who are enrolled, on at least a half-time basis, in a program of postsecondary education;

(D) the assets of (i) the student and the student's spouse, and (ii) the student's parents, in the case of a dependent student;

(E) the marital status of the student;

(F) the unusual medical expenses of (i) the student's parents, in the case of a dependent student, or (ii) the student and the student's spouse, in the case of an independent student;

(G) the additional expenses incurred (i) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (ii) in the case of an independent student, when both the student and the student's spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954; and

(H) the tuition paid (i) in the case of a dependent student, by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school, (ii) in the case of an independent student, by the student or the student's spouse for dependent children who are so enrolled.

(b) EXCLUSION OF FORCED SALE PROCEEDS.—In the computation of family contributions for the program under this subpart for any academic year, there shall be excluded from family income any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.

(20 U.S.C. 1070a-1) Enacted October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1312; amended June 3, 1987, P.L. 100-50, sec. 3(b)(1), 101 Stat. 337.

ELIGIBILITY DETERMINATION FOR DEPENDENT STUDENTS

SEC. 411B. (a) COMPUTATION OF STUDENT AID INDEX.—For each dependent student, the student aid index is equal to the sum of—

(1) the contribution from parents' income and assets, determined in accordance with subsection (b);

(2) the contribution from student's (and spouse's) income, determined in accordance with subsection (h); and

(3) the contribution from student's (and spouse's) assets, determined in accordance with subsection (l).

(b) CONTRIBUTION FROM PARENTS' INCOME AND ASSETS.—The parents' contribution from income and assets is equal to the amount determined by—

(1) computing the standard contribution from parents' income, determined in accordance with subsection (c);

(2) adding the contribution from parents' assets, determined in accordance with subsection (g); and

(3) dividing the resultant amount by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which aid under this subpart is requested.

(c) STANDARD CONTRIBUTION FROM PARENTS' INCOME.—The standard contribution from parents' income is determined by calculating the effective family income in accordance with subsection (d); by deducting the total offsets against income, as determined in accordance with subsection (e); and by assessing the results in accordance with subsection (f).

(d) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to—

(1) the sum of—

(A) the adjusted gross income of the parents as reported to the Internal Revenue Service for the year immediately preceding the award year, and income earned from work but not reported on a Federal income tax return, less any excludable income (as defined in section 411F(9));

(B) the total annual amount of untaxed income and benefits, received by the parents in the year immediately preceding the award year; and

(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period, minus

(2) the sum of—

(A) the amount of United States income tax paid or payable by the parents in the tax year preceding the award year; and

(B) an allowance for State and other taxes, as determined by multiplying the parents' total income (as determined under paragraph (1)) by a percentage determined according to the following table:

Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9

Percentages for Computation of State and Other Tax Allowance—Continued

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

(e) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

(1) a family size offset as determined by the following table:

Family Size Offsets

Family members	Amount
2	$6,700
3	8,100
4	10,400
5	12,300
6	13,800
7 or more	13,800 plus $1,800 for each member over 6

(2) an offset for unusual medical and dental expenses;

(3) an offset for employment expenses; and

(4) an offset for unreimbursed elementary and secondary school tuition and fees.

(f) ASSESSMENT OF DISCRETIONARY INCOME.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (d)), minus (B) the total offsets to such income (as determined under subsection (e)). If such discretionary income is a negative amount, the contribution from the parents' income is zero.

(2) If such discretionary income is a positive amount, the standard contribution from discretionary income is determined in accordance with the following chart:

Discretionary income	Expected contribution
$0 to $5,000	11% of discretionary income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

(g) CONTRIBUTION FROM PARENTS' ASSETS.—The standard contribution from parents' assets is determined in accordance with paragraphs (1) through (6):

(1) If the parental assets include a principal place of residence, deduct $30,000 from the net value of the principal place of residence, except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

(2) If the parental assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

(3) If the parental assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

(4) If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $110,000, or $130,000, as the case may be.

(5)(A) The expected contribution from parental assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

(B) If the calculation of effective family income[1] required by subsection (d)[2] produces a negative number, the expected contribution from parental assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income.[1] If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

(6)(A) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(B) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income also is included in computing effective family income, the assets of that parent's spouse shall also be included.

(h) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The contribution from student's (and spouse's) income is determined by calculating the student's (and spouse's) effective income, as determined in accordance with subsection (i), by deducting the total offsets against income, as determined in accordance with subsection (j), and by assessing the results in accordance with subsection (k).

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[1] So in original. Probably should be "discretionary income". See section 411c(f)(5).

[2] So in original. Probably should be "subsection (f)".

(i) DETERMINATION OF STUDENT'S (AND SPOUSE'S) EFFECTIVE INCOME.—The effective income of the student (and spouse) is equal to—

(1) the sum of—

(A) the adjusted gross income of the student (and spouse) as reported to the Internal Revenue Service for the year immediately preceding the award year, or income earned from work, but not reported on a Federal income tax return, less any excludable income (as defined in section 411F(9)); and

(B) the total annual amount of untaxed income and benefits received by the student (and spouse) in the year immediately preceding the award year; minus

(2) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year.

(j) TOTAL OFFSETS AGAINST STUDENT'S (AND SPOUSE'S) INCOME.—Total offsets against student's (and spouse's) income are determined by deducting—

(1) a dependent student offset of $3,500, or $5,100 in the case of a dependent student with a spouse; and

(2) if the parental discretionary income (as determined under subsection (f)) is a negative amount, the amount, if any, by which the result of the subtraction performed under subsection (g)(5) is less than zero.

(k) ASSESSMENT OF STUDENT'S (AND SPOUSE'S) INCOME.—If the student's (and spouse's) effective income (as determined under subsection (i)) minus the total offsets (as determined under subsection (j)) is a negative amount, the contribution from student income is zero. If the student's (and spouse's) effective income is a positive amount, multiply it by 75 percent to determine the contribution from student's income.

(l) DETERMINATION OF CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—The contribution from the student's (and spouse's) assets is determined by calculating the net assets of the student (and spouse) and multiplying the amount by 33 percent, except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero.

(20 U.S.C. 1070a-2) Enacted October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1313; amended June 3, 1987, P.L. 100-50, sec. 3(b)(2), (c), (d), (e), (f)(1), (f)(4), (g), 101 Stat. 337, 338.

ELIGIBILITY DETERMINATION FOR INDEPENDENT STUDENTS WITH DEPENDENTS OTHER THAN A SPOUSE

SEC. 411C. (a) COMPUTATION OF STUDENT AID INDEX.—For independent students with dependents other than a spouse, the student aid index is equal to the amount determined by—

(1) computing the standard contribution from student's (and spouse's) income determined in accordance with subsection (b);

(2) adding the contribution from student's (and spouse's) assets determined in accordance with subsection (f); and

(3) dividing the resultant amount by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which aid under this subpart is requested.

(b) Computing the Standard Contribution From Student's (and Spouse's) Income.—The standard contribution from the student's (and spouse's) income is determined by calculating the effective family income in accordance with subsection (c); by deducting the total offsets against income, as determined in accordance with subsection (d); and by assessing the results in accordance with subsection (e).

(c) Determination of Effective Family Income.—The effective family income is equal to—

(1) the sum of—

(A) the adjusted gross income of the student (and spouse) as reported to the Internal Revenue Service for the year immediately preceding the award year and income earned from work, other than amounts received under part C of this title, but not reported on a Federal income tax return, less any excludable income (as defined in section 411F(9));

(B) the total annual amount of untaxed income and benefits which is received by the student (and spouse) in the year immediately preceding the award year; and

(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period; minus

(2) the sum of—

(A) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

(B) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income (as determined under paragraph (1)) by a percentage determined according to the following table:

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5

Percentages for Computation of State and Other Tax Allowance—Continued

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

(d) Total Offsets Against Income.—Total offsets against income are determined by deducting—

(1) a family size offset equal to the amount specified in the following table:

Family Size Offsets

Family members	Amount
	then the percentage is—
2	$6,700
3	8,100
4	10,400
5	12,300
6	13,800
7 or more	13,800 plus $1,800 for each member over 6

(2) an offset for unusual medical and dental expenses;

(3) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, an offset for employment expenses; and

(4) an offset for unreimbursed elementary and secondary school tuition and fees.

(e) Assessment of Discretionary Income.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (c)), minus (B) the total offsets to such income (as determined under subsection (d)). If such discretionary income is a negative amount, the contribution from the student's (and spouse's) income is zero.

(2) If such discretionary income is a positive amount, the standard contribution from discretionary income is determined in accordance with the following chart:

Discretionary income	Expected contribution
$0 to $5,000	11% of discretionary income.
$5,001 to $10,000	$550, plus 13% of amount over $5,000.
$10,001 to $15,000	$1,200, plus 18% of amount over $10,000.
$15,001 and above	$2,100, plus 25% of amount over $15,000.

(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—The standard contribution from student's (and spouse's) assets is determined in accordance with paragraphs (1) through (6):

(1) If the student's (and spouse's) assets include a principal place of residence, deduct $30,000 from the net value of the principal place of residence, except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

(2) If the student's (and spouse's) assets include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

(3) If the student's (and spouse's) assets include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

(4) If the sum of the farm and business deduction and the deductions in paragraphs (1) and (2) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $110,000, or $130,000, as the case may be.

(5)(A) The expected contribution from student's (and spouse's) assets equals 5 percent of the total of the amounts obtained under paragraphs (1), (2), and (3).

(B) If the assessment of discretionary income under subsection (e) produces a negative number, the expected contribution from student's (and spouse's) assets, calculated under this paragraph, shall be reduced by the amount of that negative effective family income.[1] If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

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[1] So in original. Probably should be "discretionary income".

(6) If the married independent student with dependents is separated or divorced, only assets of the independent student shall be considered.

(20 U.S.C. 1070a-3) Enacted October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1316; amended June 3, 1987, P.L. 100-50, sec. 3(b)(3), (c), (f)(2), (f)(4), (g), (h)(2), 101 Stat. 337, 338.

ELIGIBILITY DETERMINATION FOR SINGLE INDEPENDENT STUDENTS OR FOR MARRIED INDEPENDENT STUDENTS WITHOUT OTHER DEPENDENTS

SEC. 411D. (a) COMPUTATION OF STUDENT AID INDEX.—For single independent students or married independent students without other dependents, the student aid index is equal to the amount determined by—

(1) computing the standard contribution from student's (and spouse's) income determined in accordance with subsection (b);

(2) adding contribution from student's (and spouse's) assets determined in accordance with subsection (f); and

(3) dividing the resultant amount by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which aid under this subpart is requested.

(b) COMPUTING THE STANDARD CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) INCOME.—The standard contribution from the student's (and spouse's) income is determined by calculating the effective family income in accordance with subsection (c); by deducting the total offsets against income, as determined in accordance with subsection (d); and by assessing the results in accordance with subsection (e).

(c) DETERMINATION OF EFFECTIVE FAMILY INCOME.—The effective family income is equal to—

(1) the sum of—

(A) the adjusted gross income of the student (and spouse) as reported to the Internal Revenue Service for the year immediately preceding the award year and income earned from work, other than amounts received under part C of this title, but not reported on a Federal income tax return, less any excludable income (as defined in section 411F(9));

(B) the total annual amount of untaxed income and benefits which is received by the student (and spouse) in the year immediately preceding the award year; and

(C) one-half of the student's total veterans educational benefits, excluding Veterans' Administration contributory benefits, expected to be received during the award period; minus

(2) the sum of—

(A) the amount of United States income tax paid or payable by the student (and spouse) in the tax year preceding the award year; and

(B) an allowance for State and other taxes as determined by multiplying the student's (and spouse's) total income (as determined under paragraph (1)), by a percentage determined according to the following table:

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's (and spouse's) total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

(d) TOTAL OFFSETS AGAINST INCOME.—Total offsets against income are determined by deducting—

(1) a family size offset equal to the amount specified in the following table:

Family Size Offsets

Family members	Amount
1	$5,300
2	6,700

(2) an offset for unusual medical and dental expenses; and

(3) in the case of a married independent student when both the student and spouse were employed in the year for which income is reported, or in the case of a student who qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, an offset for employment expenses.

(e) ASSESSMENT OF DISCRETIONARY INCOME.—(1) The discretionary income that is assessed under this subsection is equal to (A) the effective family income (as determined under subsection (c)), minus (B) the total offsets to such income (as determined under subsection (d)). If such discretionary income is a negative amount, the contribution from the student's (and spouse's) income is zero.

(2) If such discretionary income is a positive amount, the standard contribution from student's (and spouse's) income is multiplied by 75 percent.

(f) CONTRIBUTION FROM STUDENT'S (AND SPOUSE'S) ASSETS.—(1) The asset contribution amount of an independent student and the student's spouse is equal to 5 percent of the sum of the amounts computed under paragraphs (3) and (4), reduced by the amount, if any, by which effective family income[1] as computed under subsection (c)[2] is less than zero. If the result of such subtraction is a negative amount, the family asset contribution amount is zero.

(2) The family asset contribution amount of a single independent student is equal to 33 percent of such student's net asset value, reduced by the amount, if any, by which effective family income[1] as computed under subsection (c)[2] is less than zero. If such value minus such amount is a negative amount, the family asset contribution amount is zero.

(3) If the assets of an independent student with a spouse include a principal place of residence, deduct $30,000 from the net value of the principal place of residence, except that in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero. If the subtraction required by the preceding sentence of this paragraph produces a negative number, the amount determined under this paragraph shall be zero.

(4)(A) If the assets of an independent student with a spouse include assets other than a principal place of residence and other than farm and business assets, deduct $25,000 from the net value of those other assets. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

(B)(i) If the assets of an independent student with a spouse include farm or business assets, or both, deduct $80,000 in the case of business assets or $100,000 in the case of farm assets from the net value of the farm or business assets, or both. If the subtraction required by the preceding sentence of this subparagraph produces a negative number, the amount determined under this subparagraph shall be zero.

(ii) If the sum of the farm and business deduction and the deductions in paragraphs (3) and (4)(A) exceeds $110,000 in the case of business deductions or $130,000 in the case of farm deductions, the farm and business deduction shall be reduced by the amount that that sum exceeds $110,000, or $130,000, as the case may be.

(20 U.S.C. 1070a-4) Enacted October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1319; amended June 3, 1987, P.L. 100-50, sec. 3(b)(4), (c), (f)(3), (f)(4), (g), 101 Stat. 337, 338.

REGULATIONS; UPDATED TABLES

SEC. 411E. (a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this subpart except—

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[1] So in original. Probably should be "discretionary income". See section 411c(f)(5).
[2] So in original. Probably should be "subsection (e)".

(A) to prescribe updated tables under sections 411B through 411D; or

(B) to propose modifications in the need analysis methodology required by this subpart.

(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsection (b), or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsection (b) of this section.

(b) PROVISIONS GOVERNING UPDATED TABLES.—(1)(A) Each of the amounts allowed as an offset for family size for dependent and independent students shall, for each academic year after academic year 1988–1989, be adjusted by the Secretary by increasing (or decreasing) the comparable amount for the preceding academic year by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, and rounded to the nearest $100.

(B) The Secretary shall publish in the Federal Register a revised table for an offset for family size in accordance with section 482.

(2)(A) The Secretary shall, for each academic year after academic year 1988–1989, publish in the Federal Register such revisions in offsets against income, asset determination, and assessment rates as are necessary to reflect the most recent and relevant data.

(B) The Secretary shall publish in the Federal Register the revised determinations required by subparagraph (A) in accordance with section 482.

(20 U.S.C. 1070a–5) Enacted October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1322.

DEFINITIONS; DETERMINATIONS

SEC. 411F. For the purpose of this subpart—

(1) The term "annual adjusted family income" means the sum received in the year immediately preceding the award year, by the student's parents (in the case of a dependent student), or by the student and, if applicable, the student's spouse (in the case of an independent student), except excludable income under paragraph (9) of this subsection, from the following sources subject to the following rules:

(A) Adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1954.

(B) Untaxed income and benefits, as defined in paragraph (15) of this section.

(C) Income from one-half of any veteran's benefits expected to be paid to the student during the award period under chapters 34 and 35 of title 38 of the United States Code.

(D) Income for a student whose parents are divorced or separated is determined under the following procedures:

(i) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(ii) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(iii) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(E) Income in the case of the death of any parent as follows:

(i) If either of the parents have died, the student shall include only the income of the surviving parent.

(ii) If both parents have died, the student shall not report any parental income.

(F) Income in the case of a parent whose income is taken into account under subparagraph (D) of this paragraph, or a parent who is a widow or widower and whose income is taken into account under clause (i) of this subparagraph, has remarried, under the following rule: The income of that parent's spouse shall be included in determining the student's annual adjusted family income if—

(i) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

(ii) the student is not an independent student.

(G)(i) Income in the case of a dislocated worker shall be the income for the year for which the determination is made.

(ii) For the purpose of this subparagraph, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act.

(2) The term "assets" means cash on hand, including amount[1] in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

(3) The term "award year" is the period of time between July 1 of the first year and June 30 of the following year.

(4) The term "business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery, and other equipment, patents, franchise rights, and copyrights.

(5) The term "cost of attendance" means—

(A) the tuition and uniform compulsory fees normally charged a full-time student at the institution at which the student is in attendance for any award year, plus

(B)(i) an allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student which shall not exceed $1,700 for a student without dependents residing at home with parents;

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[1] So in original. Should be "amounts".

(ii) an allowance for room and board costs, books, supplies, transportation, and miscellaneous expenses incurred by the student which shall not exceed $2,300 for all other students, subject to clause (iii);

(iii) an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with clause (iv)) for less than half-time students (as determined by the institution);

(iv) an allowance for child care which shall not exceed $1,000; and

(v) an allowance for the costs of special services and equipment required for attendance by the handicapped that are not provided by other assisting agencies;

except that, if the maximum award under this subpart is less than or greater than $2,300, then the dollar amounts specified in clauses (i) and (ii) of subparagraph (B) of this paragraph shall be increased or decreased by an amount equal to the amount by which such maximum award is greater than or less than $2,300, respectively.

(6) Except as otherwise provided, the term (A) "dependent of the student" means the student's spouse, the student's dependent children, and other persons who live with and receive more than one-half of their support from the student and will continue to receive more than half of their support from the student during the award year; and (B) the term "dependent of the parent" means the parents of the student, the student, any of the student's dependent children, dependent children of the student's parents, including those children who are deemed to be dependent students when applying for aid under this title, and other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents during the award year.

(7) Effective family income shall be determined on the basis of the annual adjusted family income minus the Federal taxes and imputed State and other taxes paid or payable for the year that adjusted gross income is used in the calculation of the student's Pell Grant.

(8)(A) The employment expense offset is determined as follows:

(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the parent with the lesser earned income.

(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the parent's earned income.

(B) The employment expense offset in the case of an independent student with dependents is determined as follows:

(i) If both the student and the student's spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such offset is equal to the lesser of $1,500 or 50 percent of the earned income (income earned by work) of the spouse with the lesser earned income.

(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code of 1954, such offset is equal to the lesser of $1,500 or 50 percent of the student's earned income.

(9)(A) The term "excludable income" means the income described in subparagraphs (B) through (E) of this paragraph which is excluded for the purpose of determining "annual adjusted family income" under paragraph (1).

(B) For a Native American Student,[1] the annual adjusted family income does not include any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act or any income received by the student (and spouse) and student's parents under the Alaska Native Claims Settlement Act or the Maine Indians Claims Settlement Act.

(C) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

(D) The annual adjusted family income does not include any student financial assistance (including any income earned from work under part C of this title) except veterans' or Social Security benefits set forth in paragraph (15) of this subsection.

(E) Annual adjusted family income does not include any unemployment compensation received by a dislocated worker certified in accordance with title III of the Job Training Partnership Act.

(10)(A) In determining family size in the case of a dependent student—

(i) if the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents including the student;

(ii) if the parents are divorced or separated, family members include the parent whose income is included in computing the effective family income and that parent's dependents, including the student; and

(iii) if the parents are divorced and the parent whose income is so included is remarried, or if the parent was a widow or widower who has remarried, family members also include, in addition to those individuals referred to in subparagraph (B), the new spouse and any dependents of the new spouse if that spouse's income is included in determining effective family income.

(B) In determining family size in the case of an independent student with dependents—

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[1] So in original. Should be "Native American" student.

(i) family members include the student, the student's spouse, and the student's dependents; and

(ii) if the student is divorced or separated, family members do not include the spouse (or ex-spouse), but do include the student and the student's dependents.

(11) The term "farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

(12)(A) The term "independent", when used with respect to a student, means any individual who—

(i) is 24 years of age or older by December 31 of the award year; or

(ii) meets the requirements of subparagraph (B).

(B) Except as provided in subparagraph (C), an individual meets the requirements of this subparagraph if such individual—

(i) is an orphan or ward of the court;

(ii) is a veteran of the Armed Forces of the United States;

(iii) is a graduate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

(iv) is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

(v) has legal dependents other than a spouse;

(vi) is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the award year in which the initial award will be granted by demonstrating annual total resources (including all sources of resources other than parents) of $4,000; or

(vii) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(C) An individual may not be treated as an independent student pursuant to clauses (iii), (iv), and (vi) of subparagraph (B) if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first calendar year of such award year.

(D) The financial aid administrator may certify an individual described in clause (iii), (iv), or (vi) of subparagraph (B) on the basis of a demonstration made by the individual, but no disbursal of an award may be made without documentation.

(13) The term "net assets" means the current market value at the time of application of the assets included in the definition of "assets", minus the outstanding liabilities (indebtedness) against the assets.

(14) The term "unreimbursed elementary and secondary school tuition and fees" means the unreimbursed tuition and fees paid by the student's parents for each dependent other than the student, or by an independent student (and spouse) for dependents enrolled in elementary or secondary school, and may not exceed for each such dependent the national average per pupil instructional cost as published by the Center for Education Statistics using the most recent available data.

(15) The term "untaxed income and benefits" means—

(A) child support received;

(B) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

(C) workman's compensation;

(D) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

(E) interest on tax-free bonds;

(F) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

(G) cash support or any money paid on the student's behalf;

(H) the amount of earned income credit claimed for Federal income tax purposes;

(I) untaxed portion of pensions;

(J) credit for Federal tax on special fuels;

(K) the amount of foreign income excluded for purposes of Federal income taxes;

(L) untaxed social security benefits;

(M) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

(N) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

(16)(A) The term "unusual medical and dental expenses" means an amount equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income of the parents. The expenses of both parents are included only if the income of both parents is included in determining effective family income. A stepparent's expenses are included only if the parent's income is included in determining effective family income.

(B) The term "unusual medical and dental expenses", in the case of an independent student with dependents, means an amount equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of the effective family income of the independent student with dependents. The expenses of both the student and the student's spouse are included only if the incomes of both are included in determining effective family income.

(20 U.S.C. 1070a-6) Enacted October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1323; amended June 3, 1987, P.L. 100-50, sec. 3(h)-(m), 101 Stat. 338.

SUBPART 2—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 413A. (a) PURPOSE OF SUBPART.—It is the purpose of this subpart to provide, through institutions of higher education, supplemental grants to assist in making available the benefits of postsecondary education to qualified students who demonstrate financial need in accordance with the provisions of part F of this title.

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(a), for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $490,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.

(20 U.S.C. 1070b) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 251, 252; amended October 12, 1976, P.L. 94-482, sec. 122(a), 90 Stat. 2094; amended October 3, 1980, P.L. 96-374, sec. 403, 1391, 94 Stat. 1404, 1405, 1503; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1328.

AMOUNT AND DURATION OF GRANTS

SEC. 413B. (a) AMOUNT OF GRANT.—(1) From the funds received by it for such purpose under this subpart, an institution which awards a supplemental grant to a student for an academic year under this subpart shall, for each year, pay to that student an amount not to exceed the lesser of (A) the amount determined by the institution, in accordance with the provisions of part F of this title, to be needed by that student to enable the student to pursue a course of study at the institution, or (B) $4,000.

(2) If the amount determined under paragraph (1) with respect to a student for any academic year is less than $100, no payment shall be made to that student for that year. For a student enrolled for less than a full academic year, the minimum payment required shall be reduced proportionately.

(b) PERIOD FOR RECEIPT OF GRANTS; CONTINUING ELIGIBILITY.—(1) The period during which a student may receive supplemental grants shall be the period required for the completion of the first undergraduate baccalaureate course of study being pursued by that student.

(2) A supplemental grant awarded under this subpart shall entitle the student (to whom it is awarded) to payments pursuant to

such grant only if the student meets the requirements of section 484, except as provided in section 413C(c).

(c) DISTRIBUTION OF GRANT DURING ACADEMIC YEAR.—Nothing in this section shall be construed to prohibit an institution from making payments of varying amounts from a supplemental grant to a student during an academic year to cover costs for a period which are not applicable to other periods of such academic year.

(20 U.S.C. 1070b–1) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 252, 253; amended October 3, 1980, P.L. 96–374, sec. 403, 94 Stat. 1405; amended October 17, 1986, P.L. 99–498, sec. 301(a), 100 Stat. 1328.

AGREEMENTS WITH INSTITUTIONS; SELECTION OF RECIPIENTS

SEC. 413C. (a) INSTITUTIONAL ELIGIBILITY.—Assistance may be made available under this subpart only to an institution which—

(1) has, in accordance with section 487, an agreement with the Secretary applicable to this subpart;

(2) agrees that the Federal share of awards under this subpart will not exceed—

(A) 95 percent of such awards in fiscal year 1989,

(B) 90 percent of such awards in fiscal year 1990, and

(C) 85 percent of such awards in fiscal year 1991,

except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and

(3) agrees that the non-Federal share of awards made under this subpart shall be made from the institution's own resources, including—

(A) institutional grants and scholarships;

(B) tuition or fee waivers;

(C) State scholarships; and

(D) foundation or other charitable organization funds.

(b) ELIGIBILITY FOR SELECTION.—Awards may be made under this subpart only to a student who—

(1) is an eligible student under section 484; and

(2) makes application at a time and in a manner consistent with the requirements of the Secretary and that institution.

(c) SELECTION OF INDIVIDUALS AND DETERMINATION OF AMOUNT OF AWARDS.—(1) From among individuals who are eligible for supplemental grants for each fiscal year, the institution shall, in accordance with the agreement under section 487, and within the amount allocated to the institution for that purpose for that year under section 413D, select individuals who are to be awarded such grants and determine, in accordance with section 413B, the amounts to be paid to them.

(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 487, assure that the selection procedures—

(i) will be designed to award supplemental grants under this subpart, first, to students with exceptional need, and

(ii) will give a priority for supplemental grants under this subpart to students who receive Pell Grants and meet the requirements of section 484.

(B) For the purpose of subparagraph (A), the term "students with exceptional need" means students with the lowest expected family contributions at the institution.

(d) Use of Funds for Less-Than-Full-Time Students.—If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students.

(e) Use and Transfer of Funds for Administrative Expenses.—An agreement entered into pursuant to this section shall provide that funds granted to an institution of higher education may be used only to make payments to students participating in a grant program authorized under this subpart, except that an institution may use a portion of the sums allocated to it under this subpart to meet administrative expenses in accordance with section 489 of this title, and may transfer such funds in accordance with the provisions of section 488.

(20 U.S.C. 1070b–2) Enacted June 23, 1972, P.L. 92–318, sec. 131(b)(1), 86 Stat. 253, 254; amended October 12, 1976, P.L. 94–482, sec. 122(b), 90 Stat. 2094; amended October 3, 1980, P.L. 96–374, sec. 403(d), 94 Stat. 1405; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1329.

ALLOCATION OF FUNDS

Sec. 413D. (a) Allocation Based on Previous Allocation.—(1) From the amount appropriated pursuant to section 413A(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to 100 percent of the amount such institution received and used under this subpart for fiscal year 1985.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this subpart for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this subpart after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this subpart in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 413A(b) for any fiscal year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) bears to the amount all such institutions receive under such subsection (a).

(c) ALLOCATION OF EXCESS BASED ON FAIR SHARE.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 413A(b) for each year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (d)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 413A(b) of the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a).

(d) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to—

(A) the sum of the need of the institution's eligible undergraduate students; minus

(B) the sum of grant aid received by students under subparts 1 and 3 of this part.

(2) To determine the need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 75 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by 75 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C), minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3)(A) For purposes of paragraph (2), the term "average cost of attendance" means the average of the attendance costs for undergraduate students which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths[1] in the Pell Grant family size offset for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(e) Reallocation of Excess Allocations.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

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[1] So in original.

(f) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(20 U.S.C. 1070b-3) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 254, 255; amended October 3, 1980, P.L. 96-374, sec. 403, 1351, 94 Stat. 1405, 1503; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1330; amended June 3, 1987, P.L. 100-50, sec. 4, 101 Stat. 340.

SUBPART 3—GRANTS TO STATES FOR STATE STUDENT INCENTIVES

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 415A. (a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to the States to assist them in providing grants to eligible students attending institutions of higher education and grants to eligible students for campus-based community service work learning study.

(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—(1) There are authorized to be appropriated $85,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.

(20 U.S.C. 1070c) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 255, 256; amended October 12, 1976, P.L. 94-482, sec. 123(a) and 123(c)(1), 90 Stat. 2094; amended June 15, 1977, 95-43, sec. 1(b)(3), 91 Stat. 218; amended October 3, 1980, P.L. 96-374, sec. 404(a), 94 Stat. 1406; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1332.

ALLOTMENT AMONG STATES

SEC. 415B. (a) ALLOTMENT BASED ON NUMBER OF ELIGIBLE STUDENTS IN ATTENDANCE.—(1) From the sums appropriated pursuant to section 415A(b)(1) for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such sums as the number of students who are deemed eligible in such State for participation in the grant program authorized by this subpart bears to the total number of such students in all the States, except that no State shall receive less than the State received for fiscal year 1979.

(2) For the purpose of this subsection, the number of students who are deemed eligible in a State for participation in the grant program authorized by this subpart, and the number of such students in all the States, shall be determined for the most recent year for which satisfactory data are available.

(b) REALLOTMENT.—The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for the State student grant incentive program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States under such part for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out the State plan. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this part during a year from funds appropriated pursuant to section 415A(b)(1) shall be deemed part of its allotment under subsection (a) for such year.

(c) ALLOTMENTS SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for continuing incentive grants only to States which continue to meet the requirements of section 415C(b).

(20 U.S.C. 1070c-1) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 256; amended October 12, 1976, P.L. 94-482, sec. 123(c)(2), 90 Stat. 2094; amended October 3, 1980, P.L. 96-374, sec. 404(b), 1397, 94 Stat. 1407, 1503; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1333.

APPLICATIONS FOR STATE STUDENT INCENTIVE GRANT PROGRAMS

SEC. 415C. (a) SUBMISSION AND CONTENTS OF APPLICATIONS.—A State which desires to obtain a payment under this subpart for any fiscal year shall submit annually an application therefor through the State agency administering its program under this subpart as of July 1, 1985, unless the Governor of that State so designates, in writing, a different agency to administer the program. The application shall contain such information as may be required by, or pursuant to, regulation for the purpose of enabling the Secretary to make the determinations required under this subpart.

(b) PAYMENT OF FEDERAL SHARE OF GRANTS MADE BY QUALIFIED PROGRAM.—From a State's allotment under this subpart for any fiscal year the Secretary is authorized to make payments to such State for paying up to 50 percent of the amount of student grants pursuant to a State program which—

(1) is administered by a single State agency;

(2) provides that such grants will be in amounts not in excess of $2,500 per academic year (A) for attendance on a full-time basis at an institution of higher education, and (B) for campus-based community service work learning study jobs;

(3) provides that—

(A) not more than 20 percent of the allotment to the State for each fiscal year may be used for the purpose described in paragraph (2)(B);

(B) grants for the campus-based community work learning study jobs may be made only to students who are otherwise eligible for assistance under this subpart; and

(C) grants for such jobs be made in accordance with the provisions of section 443(b)(1);

(4) provides for the selection of recipients of such grants or of such State work-study jobs on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary;

(5) provides that, effective with respect to any academic year beginning on or after October 1, 1978, all nonprofit institutions of higher education in the State are eligible to participate in the State program, except in any State in which participation of nonprofit institutions of higher education is in violation of

the constitution of the State or in any State in which participation of nonprofit institutions of higher education is in violation of a statute of the State which was enacted prior to October 1, 1978;

(6) provides for the payment of the non-Federal portion of such grants or of such work-study jobs from funds supplied by such State which represent an additional expenditure for such year by such State for grants or work-study jobs for students attending institutions of higher education over the amount expended by such State for such grants or work-study jobs, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

(7) provides that, if the institution's allocation under this subpart is based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's allocation shall be made available to such students;

(8) provides for State expenditures under such program of an amount not less than the average annual aggregate expenditures for the preceding three fiscal years or the average annual expenditure per full-time equivalent student for such years;

(9) provides (A) for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the State agency under this subpart, and (B) for the making of such reports, in such form and containing such information, as may be reasonably necessary to enable the Secretary to perform his functions under this subpart; and

(10) for any academic year beginning after June 30, 1987, provides the non-Federal share of the amount of student grants or work-study jobs under this subpart through a direct appropriation of State funds for the program under this subpart.

(c) RESERVATION AND DISBURSEMENT OF ALLOTMENTS AND REALLOTMENTS.—Upon his approval of any application for a payment under this subpart, the Secretary shall reserve from the applicable allotment (including any applicable reallotment) available therefor, the amount of such payment, which (subject to the limits of such allotment or reallotment) shall be equal to the Federal share of the cost of the students' incentive grants or work-study jobs covered by such application. The Secretary shall pay such reserved amount, in advance or by way of reimbursement, and in such installments as the Secretary may determine. The Secretary may amend the reservation of any amount under this section, either upon approval of an amendment of the application or upon revision of the estimated cost of the student grants or work-study jobs with respect to which such reservation was made. If the Secretary approves an upward revision of such estimated cost, the Secretary may reserve the Federal share of the added cost only from the applicable allotment (or reallotment) available at the time of such approval.

(20 U.S.C. 1070c-2) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 256, 257; amended October 12, 1976, P.L. 94-482, sec. 123(b), 90 Stat. 2094; amended June 15, 1977, P.L. 95-43, sec. 1(a)(6), 91 Stat. 213; amended November 1, 1978, P.L. 95-

566, sec. 3, 92 Stat. 2403; amended October 3, 1980, P.L. 96-374, sec. 404(c), 1391, 94 Stat. 1407, 1503; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1333.

ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

Sec. 415D. (a) Disapproval of Applications; Suspension of Eligibility.—(1) The Secretary shall not finally disapprove any application for a State program submitted under section 415C, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

(2) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(A) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(B) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until he is satisfied that there is no longer any such failure to comply.

(b) Review of Decisions.—(1) If any State is dissatisfied with the Secretary's final action with respect to the approval of its State program submitted under this subpart or with his final action under subsection (a), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Commissioner shall forthwith certify and file in the court the transcript of the proceedings and the record on which he based his action.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in title 28, United States Code, section 1254.

(20 U.S.C. 1070c-3) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 257, 258; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1335.

DEFINITION

Sec. 415E. For the purpose of this subpart, the term "community service" means services, including direct service, planning, and applied research which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, and which—

(1) are designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to the needs of such residents, including but not limited to, such fields as health care, child care, education, literacy training, welfare, social services, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, and community improvement; and

(2) provide participating students with work-learning opportunities related to their educational or vocational programs or goals.

(20 U.S.C. 1070c-4) Enacted October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1336; amended June 3, 1987, P.L. 100-50, sec. 5, 101 Stat. 340.

SUBPART 4—SPECIAL PROGRAMS FOR STUDENTS FROM DISADVANTAGED BACKGROUNDS

PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS

SEC. 417A. (a) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, and to train individuals serving or preparing for service in programs and projects so designed.

(b) ELIGIBLE GRANT AND CONTRACT RECIPIENTS.—(1) For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, and, in exceptional circumstances, secondary schools for planning, developing, or carrying out one or more of the services assisted under this subpart.

(2) In making grants and contracts under this subpart, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant. For fiscal years after 1985, the level of consideration given to prior experience shall not vary from the level of consideration given this factor for fiscal year 1985.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this subpart, there are authorized to be appropriated $205,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(d) DEFINITIONS.—For the purpose of this subpart—

(1) the term "first generation college student" means—

(A) an individual both of whose parents did not complete a baccalaureate degree; or

(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree;

(2) the term "low-income individual" means an individual from a family whose taxable income for the preceding year did

not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census; and

(3) no veteran shall be deemed ineligible to participate in any program under this subpart by reason of such individual's age who—

(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

(20 U.S.C. 1070d) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 258; amended October 12, 1976, P.L. 94-482, sec. 124(a), 90 Stat. 2094; amended October 3, 1980, P.L. 96-374, sec. 405, 94 Stat. 1407; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1336.

TALENT SEARCH

SEC. 417B. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as talent search which shall be designed—

(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

(b) TUTORIAL SERVICES.—A talent search project assisted under this subpart may include, in addition to the services described in paragraphs (1), (2), and (3) of subsection (a), tutorial services for youths being encouraged to undertake or reenter programs of postsecondary education if such tutorial services are not otherwise available to such youths through a project assisted under this subpart.

(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for talent search projects under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who either have completed 6 years of elementary education or are at least 12 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417E;

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417E; and

(4) require assurances that the project will be located in a setting accessible to the persons proposed to be served by the project.

(20 U.S.C. 1070d-1) Enacted June 23, 1972, P.L. 92-318, sec. 131(b)(1), 86 Stat. 258, 259; amended August 21, 1974, P.L. 93-380, sec. 833, 88 Stat. 602, 604; amended October 12, 1976, P.L. 94-482, sec. 124, 90 Stat. 2094, 2095, 2096; amended November 1, 1978, P.L. 95-566, sec. 4, 92 Stat. 2403; amended October 3, 1980, P.L. 96-374, sec. 405, 94 Stat. 1408; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1337.

UPWARD BOUND

SEC. 417C. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

(b) PERMISSIBLE SERVICES.—Any upward bound project assisted under the subpart may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

(2) personal counseling;

(3) academic advice and assistance in high school course selection;

(4) tutorial services;

(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

(8) on-campus residential programs; and

(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for upward bound projects under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or be first generation college students;

(3) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13

years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section.

(d) Maximum Stipends.—Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

(20 U.S.C. 1070d-1a) Enacted October 3, 1980, P.L. 96-374, sec. 405, 94 Stat. 1409; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1338.

STUDENT SUPPORT SERVICES

Sec. 417D. (a) Program Authority.—The Secretary shall carry out a program to be known as student support services (hereinafter referred to as "student support services").

(b) Permissible Services.—A support services project assisted under this subpart may provide services such as—

(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

(2) personal counseling;

(3) academic advice and assistance in course selection;

(4) tutorial services and counseling and peer counseling;

(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

(6) activities designed to acquaint students participating in the project with the range of career options available to them;

(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

(8) activities designed to assist students currently enrolled in 2-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education; and

(9) programs and activities as described in paragraphs (1) through (8) which are specially designed for students of limited English proficiency.

(c) Requirements for Approval of Applications.—In approving applications for support services projects under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

(A) be physically handicapped, or

(B) be low-income individuals who are first generation college students;

(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or physically handicapped;

(3) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school;

(4) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

(5) require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will receive sufficient financial assistance to meet that student's full financial need.

(d) POST-BACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.—(1) The Secretary shall carry out a program to be known as the "Ronald E. McNair Post-Baccalaureate Achievement Program".

(2) A post-baccalaureate achievement project assisted under this subsection may provide services such as—

(A) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

(B) summer internships;

(C) seminars and other educational activities designed to prepare students for doctoral study;

(D) tutoring;

(E) academic counseling; and

(F) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs.

(2) In approving applications for post-baccalaureate achievement projects assisted under this subsection for any fiscal year, the Secretary shall require—

(A) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first-generation college students;

(B) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

(C) an assurance that participants be enrolled in a degree program at an eligible institution in accordance with the provisions of section 487; and

(D) an assurance that participants in summer research internships have completed their sophomore year in post-secondary education.

(4) In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this subsection—

(A) the quality of research and other scholarly activities in which students will be involved;

(B) the level of faculty involvement in the project and the description of the research in which students will be involved; and

(C) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this subsection.

(5) Students participating in research under a post-baccalaureate achievement project may receive stipends not to exceed $2,400 per annum.

(6) No funds shall be allocated to projects authorized under this subsection until projects authorized by the other provisions of this

subpart are allocated a minimum of $168,800,000, and in no case shall funds allocated to projects authorized under this subsection exceed—

(A) $1,000,000 in the fiscal year 1988,
(B) $2,000,000 in the fiscal year 1989,
(C) $3,000,000 in the fiscal year 1990, and
(D) $4,000,000 in the fiscal year 1991.

(20 U.S.C. 1070d-1b) Enacted October 3, 1980, P.L. 96-374, sec. 405, 94 Stat. 1410; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1339; amended June 3, 1987, P.L. 100-50, sec. 6, 101 Stat. 340.

EDUCATIONAL OPPORTUNITY CENTERS

SEC. 417E. (a) PROGRAM AUTHORITY; SERVICES PROVIDED.—The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

(b) TUTORIAL AND COUNSELING SERVICES.—An educational opportunity center assisted under this subpart may provide, in addition to the services described in paragraphs (1) and (2) of subsection (a), tutorial and counseling services for persons participating in the project if such tutorial and counseling services are not otherwise available through a project assisted under this subpart.

(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for educational opportunity centers under this subpart for any fiscal year the Secretary shall—

(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 417B; and

(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 417B.

(20 U.S.C. 1070d-1c) Enacted October 3, 1980, P.L. 96-374, sec. 405, 94 Stat. 1410; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1340.

STAFF DEVELOPMENT ACTIVITIES

SEC. 417F. For the purpose of improving the operation of the programs and projects authorized by this subpart, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

(20 U.S.C. 1070d-1d) Enacted October 3, 1980, P.L. 96-374, sec. 405, 94 Stat. 1411; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1361.

Subpart 5—Special Programs for Students Whose Families Are Engaged in Migrant and Seasonal Farmwork

MAINTENANCE AND EXPANSION OF EXISTING PROGRAMS

Sec. 418A. (a) Program Authority.—The Secretary shall maintain and expand existing secondary and postsecondary high school equivalency program and college assistance migrant program projects located at institutions of higher education or at private nonprofit organizations working in cooperation with institutions of higher education.

(b) Services Provided by High School Equivalency Program.—The services authorized by this subpart for the high school equivalency program include—

(1) recruitment services to reach persons who are 17 years of age and over, who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who lack a high school diploma or its equivalent;

(2) educational services which provide instruction designed to help students obtain a general education diploma which meets the guidelines established by the State in which the project is located for high school equivalency;

(3) supportive services which include the following:

(A) personal, vocational, and academic counseling;

(B) placement services designed to place students in a university, college, or junior college program, or in military service or career positions; and

(C) health services;

(4) information concerning and assistance in obtaining available student financial aid;

(5) weekly stipends for high school equivalency program participants;

(6) housing for those enrolled in residential programs;

(7) exposure to cultural events, academic programs, and other educational and cultural activities usually not available to migrant youth; and

(8) other essential supportive services, as needed to ensure the success of eligible students.

(c) Services Provided by College Assistance Migrant Program.—Services authorized by this subpart for the college assistance migrant program include—

(1) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork, and who meet the minimum qualifications for attendance at a college or university;

(2) supportive and instructional services which include:

(A) personal, academic, and career counseling as an ongoing part of the program;

(B) tutoring and academic skill building instruction and assistance;

(C) assistance with special admissions;

(D) health services; and

(E) other services as necessary to assist students in completing program requirements;

(3) assistance in obtaining student financial aid which includes, but is not limited to:

(A) stipends;

(B) scholarships;

(C) student travel;

(D) career oriented work study;

(E) books and supplies;

(F) tuition and fees;

(G) room and board; and

(H) other assistance necessary to assist students in completing their first year of college;

(4) housing support for students living in institutional facilities and commuting students;

(5) exposure to cultural events, academic programs, and other activities not usually available to migrant youth; and

(6) other support services as necessary to ensure the success of eligible students.

(d) Management Plan Required.—Each project application shall include a management plan which contains assurances that staff shall have a demonstrated knowledge and be sensitive to the unique characteristics and needs of the migrant and seasonal farmworker population, and provisions for:

(1) staff in-service training;

(2) training and technical assistance;

(3) staff travel;

(4) student travel;

(5) interagency coordination; and

(6) an evaluation plan.

(e) Three-year Grant Period; Consideration of Prior Experience.—Except under extraordinary circumstances, the Secretary shall award grants for a 3-year period. For the purpose of making grants under this subpart, the Secretary shall consider the prior experience of service delivery under the particular project for which funds are sought by each applicant. Such prior experience shall be awarded the same level of consideration given this factor for applicants for programs authorized by subpart 4 of this part in accordance with section 417A(b)(2).

(f) Minimum Allocations.—The Secretary shall not allocate an amount less than—

(1) $150,000 for each project under the high school equivalency program, and

(2) $150,000 for each project under the college assistance migrant program.

(g) Authorization of Appropriations.—(1) There are authorized to be appropriated for the high school equivalency program $7,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

(2) There are authorized to be appropriated for the college assistance migrant program $2,000,000 for fiscal year 1987 and such sums as may be necessary for each of the four succeeding fiscal years.

(20 U.S.C. 1070d-2) Enacted October 3, 1980, P.L. 96-374, sec. 406, 94 Stat. 1411; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1341; amended June 3, 1987, P.L. 100-50, sec. 7, 101 Stat. 340.

Subpart 6—Robert C. Byrd Honors Scholarship Program

STATEMENT OF PURPOSE

Sec. 419A. It is the purpose of this subpart to establish a Robert C. Byrd Honors Scholarship Program to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued excellence.

(20 U.S.C. 1070d-31) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900; amended Nov. 8, 1985, P.L. 99-145, sec. 1627(a), 99 Stat. 779; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1343.

DEFINITION

Sec. 419B. For the purpose of this subpart—

(1) the term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

(2) the term "State" means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(20 U.S.C. 1070d-32) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1343.

SCHOLARSHIPS AUTHORIZED

Sec. 419C. (a) Program Authority.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States to enable the States to award scholarships to individuals who have demonstrated outstanding academic achievement and who show promise of continued academic achievement.

(b) Period of Award.—Scholarships under this section shall be awarded for a period of one academic year for the first year of study at an institution of higher education.

(c) Use at any Institution Permitted.—A student awarded a scholarship under this subpart may attend any institution of higher education.

(d) Byrd Scholars.—Individuals awarded scholarships under this subpart shall be known as "Byrd Scholars".

(20 U.S.C. 1070d-33) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2900; amended Nov. 8, 1985, P.L. 99-145, sec. 1627(b), 99 Stat. 779; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344.

ALLOCATION AMONG STATES

Sec. 419D. From the sums appropriated pursuant to section 419K for any fiscal year, the Secretary shall allocate to each State having an agreement under section 419E—

(1) $1,500 multiplied by the number of individuals in the State eligible for scholarships pursuant to section 419G(b), plus

(2) $10,000, plus 5 percent of the amount to which a State is eligible under paragraph (1) of this section.

(20 U.S.C. 1070d-34) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344.

AGREEMENTS

Sec. 419E. The Secretary shall enter into an agreement with each State desiring to participate in the scholarship program authorized by this subpart. Each such agreement shall include provisions designed to assure that—

(1) the State educational agency will administer the scholarship program authorized by this subpart in the State;

(2) the State educational agency will comply with the eligibility and selection provisions of this subpart;

(3) the State educational agency will conduct outreach activities to publicize the availability of scholarships under this subpart to all eligible students in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families have access to the information on the opportunity for full participation in the scholarship program authorized by this subpart;

(4) the State educational agency will pay to each individual in the State who is awarded a scholarship under this subpart $1,500 at an awards ceremony in accordance with section 419I; and

(5) the State educational agency will use the amount of the allocation described in paragraph (2) of section 419D for administrative expenses, including the conduct of the awards ceremony required by section 419I.

(20 U.S.C. 1070d-35) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended Nov. 8, 1985, P.L. 99-145, sec. 1627(c), 99 Stat. 779; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344.

ELIGIBILITY OF SCHOLARS

Sec. 419F. (a) High School Graduation or Equivalent and Admission to Institution Required.—Each student awarded a scholarship under this subpart shall be a graduate of a public or private secondary school or have the equivalent of a certificate of graduation as recognized by the State in which the student resides and must have been admitted for enrollment at an institution of higher education.

(b) Selection Based on Promise of Academic Achievement.—Each student awarded a scholarship under this subpart must demonstrate outstanding academic achievement and show promise of continued academic achievement.

(20 U.S.C. 1070d-36) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1344.

SELECTION OF SCHOLARS

Sec. 419G. (a) Establishment of Criteria.—The State educational agency is authorized to establish the criteria for the selection of scholars under this subpart.

(b) Adoption of Procedures.—The State educational agency shall adopt selection procedures which are designed to assure that 10 individuals will be selected from among residents of each congressional district in a State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico not to exceed 10 individuals will be selected in such District or Commonwealth).

(c) Consultation Requirement.—In carrying out its responsibilities under subsections (a) and (b), the State educational agency shall consult with school administrators, school boards, teachers, counselors, and parents.

(20 U.S.C. 1070d-37) Enacted October 30, 1984 P.L. 98-558, sec. 801(a), 98 Stat. 2901; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345.

STIPENDS AND SCHOLARSHIP CONDITIONS

Sec. 419H. (a) Amount of Award.—Each student awarded a scholarship under this subpart shall receive a stipend of $1,500 for the academic year of study for which the scholarship is awarded.

(b) Use of Award.—The State educational agency shall establish procedures to assure that a scholar awarded a scholarship under this subpart pursues a course of study at an institution of higher education.

(20 U.S.C. 1070d-38) Enacted October 30, 1984 P.L. 98-558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345.

AWARDS CEREMONY

Sec. 419I. (a) Local Ceremony.—The State educational agency shall make arrangements to award scholarships under this subpart at a place in each State which is convenient to the individuals selected to receive such scholarships. To the extent possible, the award shall be made by Members of the Senate and Members of the House of Representatives (by the Delegate in the case of the District of Columbia and the Resident Commissioner in the case of the Commonwealth of Puerto Rico) who represent the State, Commonwealth, or District, as the case may be, from which the individuals come.

(b) Timing of Selection.—The selection process shall be completed, and the awards made prior to the end of each secondary academic year.

(20 U.S.C. 1070d-39) Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345.

CONSTRUCTION OF NEEDS PROVISIONS

Sec. 419J. Nothing in this subpart, or any other Act, shall be construed to permit the receipt of a scholarship under this subpart to be counted for any needs test in connection with the awarding of any grant or the making of any loan under this Act or any other provision of Federal law relating to educational assistance.

(20 U.S.C. 1070d-40) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1345.

AUTHORIZATION OF APPROPRIATIONS

SEC. 419K. There are authorized to be appropriated for this subpart $8,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(20 U.S.C. 1070d-41) Enacted October 30, 1984, P.L. 98-558, sec. 801(a), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1346.

SUBPART 7—ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION

PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION

SEC. 420. (a) COST OF EDUCATION PAYMENTS.—Each institution of higher education shall be entitled for each fiscal year to a cost-of-education payment in accordance with the provisions of this section.

(b) COMPUTATION OF AMOUNT.—(1) The amount of the cost-of-education payment to which an institution shall be entitled under this section for a fiscal year shall be, subject to subsection (d), the amount determined under paragraph (2)(A) plus the amount determined under paragraph (2)(B).

(2)(A)(i) The Secretary shall determine the amount to which an institution is entitled under this subparagraph on the basis of the total number of undergraduate students who are in attendance at the institution and the number of students who are also recipients of basic grants under subpart 1, in accordance with the following table:

If the total number of students in attendance is—	The amount of the grant is—
Not over 1,000	$500 for each recipient.
Over 1,000 but not over 2,500	$500 for each of 100 recipients; plus $400 for each recipient in excess of 100.
Over 2,500 but not over 5,000	$500 for each of 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each recipient in excess of 250.
Over 5,000 but not over 10,000	$500 for each 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each recipient in excess of 500.
Over 10,000	$500 for each of the 100 recipients; plus $400 for each of 150 recipients in excess of 100; plus $300 for each of 250 recipients in excess of 250; plus $200 for each of 500 recipients in excess of 500; plus $100 for each recipient in excess of 1,000.

(ii) In any case where a recipient of a basic grant under subpart 1 attends an institution receiving a cost-of-education payment under this subpart on less than a full-time basis, the amount determined under this subparagraph with respect to the student shall be reduced in proportion to the degree to which that student is not attending on a full-time basis.

(iii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

(B)(i) The Secretary shall determine with respect to each institution an amount equal to the appropriate percent (specified on the table below) of the aggregate of—

(I) supplemental educational opportunity grants under subpart 2;

(II) work-study payments under part C; and

(III) loans to students under part E;

made for such year to students who are in attendance at such institution. The Secretary shall determine such amounts on the basis of percentages of such aggregate, and the number of students in attendance at institutions during the most recent academic year ending prior to such fiscal year, in accordance with the following table:

If the number of students in attendance at the institution is—	The percentage of such aggregate shall be—
Not over 1,000	50 percent.
Over 1,000 but not over 3,000	46 percent.
Over 3,000 but not over 10,000	42 percent.
Over 10,000	38 percent.

(ii) If during any period of any fiscal year the funds available for making payments on the basis of entitlements established under this subparagraph are insufficient to satisfy fully all such entitlements, the amount paid with respect to each such entitlement shall be ratably reduced. When additional funds become available for such purpose, the amount of payment from such additional funds shall be in proportion to the degree to which each such entitlement is unsatisfied by the payments made under the first sentence of this division.

(3)(A) In determining the number of students in attendance at institutions of higher education under this subsection, the Secretary shall compute the full-time equivalent of part-time students.

(B) The Secretary shall make a separate determination of the number of students in attendance at an institution of higher education and the number of recipients of basic grants at any such institution at each branch or separate campus of that institution located in a different community from the principal campus of that institution pursuant to criteria established by him.

(c) Applications; Contents and Manner of Filing.—An institution of higher education may receive a cost-of-education payment in accordance with this section only upon application therefor. An application under this section shall be submitted at such time or times, in such manner, and containing such information as the Secretary determines necessary to carry out his functions under this title, and shall—

(1) set forth such policies, assurances, and procedures as will ensure that—

(A) the funds received by the institution under this section will be used solely to defray instructional expenses in academically related programs of the applicant;

(B) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

(C) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the 3 years preceding the year for which the grant is sought; and

(D) the applicant will submit to the Secretary such reports as the Secretary may require by regulation; and

(2) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States.

(d) APPORTIONMENT OF APPROPRIATIONS.—(1) The Secretary shall pay to each institution of higher education for each fiscal year the amount to which it is entitled under this section.

(2) Of the total sums appropriated to make payments on the basis of entitlements established under this section and to make payments under part D of title IX—

(A) 45 percent shall be available for making payments on the basis of entitlements established under paragraph (2)(A) of subsection (a);

(B) 45 percent shall be available for making payments on the basis of entitlements established under paragraph (2)(B) of subsection (a); and

(C) 10 percent shall be available for making payments under part D of title IX.

(3) No payments on the basis of entitlements established under paragraph (2)(A) of subsection (a) may be made during any fiscal year for which the appropriations for making grants under subpart 1 does not equal at least 50 percent of the appropriation necessary for satisfying the total of all entitlements established under such subpart. In no event shall, during any fiscal year, the aggregate of the payments to which this paragraph applies exceed that percentage of the total entitlements established under such paragraph (2)(A) which equals the percentage of the total entitlements established under subpart 1 which are satisfied by appropriations for such purpose for that fiscal year.

(e) LIMITATION ON APPROPRIATIONS.—No funds are authorized to be appropriated for this subpart for fiscal year 1987.

(20 U.S.C. 1070e) Enacted June 23, 1972, P.L. 92-318, sec. 1001(a), 86 Stat. 375, 378; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1502; redesignated October 30, 1984, P.L. 98-558, sec. 801(b)(1), 98 Stat. 2902; amended October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1346.

VETERANS EDUCATION OUTREACH PROGRAM

SEC. 420A. (a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(b) Size and Duration of Awards.—(1) The minimum grant that may be awarded to an institution under this section is $1,000, which may remain available for expenditure over a period not to exceed 2 academic years.

(2) The amount of the payment to which any institution shall be entitled under this section for any fiscal year shall be—

(A) $300 for each person who is a veteran receiving vocational rehabilitation under chapter 31 of title 38, United States Code, or a veteran receiving educational assistance under chapter 34 of such title 38, and who is in attendance at such institution as an undergraduate student during such year;

(B) $150 for each person who is in attendance at such institution as an undergraduate student during such year and who has been the recipient of educational assistance under subchapter V of chapter 34 of such title 38, or who has a service-connected disability as defined in section 101(16) of such title 38, or who is disabled, as determined in accordance with regulations promulgated by the Secretary after consultation with the Administrator of Veterans' Affairs; and

(C) $100 for each person who is in attendance at such institution as an undergraduate student during such year and who has received an honorable discharge from military service but who is no longer eligible to or does not receive educational benefits under chapter 31 or chapter 34 of title 38 of the United States Code.

(3) In any case where a person on behalf of whom a payment is made under this section attends an institution on less than a full-time basis, the amount of the payment on behalf of that person shall be reduced in proportion to the degree to which that person is not attending on a full-time basis.

(4)(A) The Secretary shall pay to each institution of higher education which has had an application approved under subsection (c) the amount to which it is entitled under this section. If the amount appropriated for any fiscal year is not sufficient to pay the amounts to which all such institutions are entitled, the Secretary shall ratably reduce such payments. If any amounts become available for a fiscal year after such reductions have been imposed, such reduced payments shall be increased on the same basis as they were reduced.

(B) The maximum amount of payments to any institution of higher education, or any branch thereof which is located in a community which is different from that in which the parent institution thereof is located, in any fiscal year shall be $75,000. In making payments under this section for any fiscal year, the Secretary shall apportion the appropriation for making such payments, from funds which become available as a result of the limitation on payments set forth in the preceding sentence, in such a manner as will result in the receipt by each institution which is eligible for payment under this section of the first $9,000 (or the amount of its entitlement for that fiscal year, but not less than $1,000, whichever is the lesser) and then additional amounts up to the limitation set forth in the preceding sentence.

(5) Not less than 90 percent of the amounts paid to any institution under paragraph (4)(A) in any fiscal year shall be used to implement the requirement of subsection (c)(2)(C)(i), and to the extent that such funds remain after implementing such requirement, funds limited by such 90 percent requirement shall be used for implementing the requirements of clauses (ii) through (v) of subsection (c)(2)(C), except that the Secretary may, in accordance with criteria established in regulations jointly prescribed by the Secretary with the Administrator, waive the requirement of this subsection to the extent that he finds that such institution is adequately carrying out all such requirements without the necessity for such application of such amount of the payments received under this subsection.

(c) Eligibility for Awards.—(1) During the period beginning July 1, 1987, and ending September 1, 1991, each institution of higher education shall be entitled to a payment under, and in accordance with, this section during any fiscal year if the number of persons who are veterans with honorable discharges and are in attendance as undergraduate students at the institution is at least 100.

(2) An institution of higher education shall be eligible to receive the payment to which it is entitled under this section only if it makes application therefor to the Secretary. An application under this section shall be submitted at such time or times, in such manner, in such form and containing such information as the Secretary determines necessary to carry out the functions of the Secretary under this title, and shall—

(A) set forth such policies, assurances, and procedures as will ensure that—

(i) the funds received by the institution under this section and available to it after the requirements of subsection (b)(5) have been met will be used solely to defray instructional expenses in academically related programs of the applicant;

(ii) the funds received by the institution under this section will not be used for a school or department of divinity or for any religious worship or sectarian activity;

(iii) the applicant will expend, during the academic year for which a payment is sought, for all academically related programs of the institution, an amount equal to at least the average amount so expended during the 3 years preceding the year for which the grant is sought;

(iv) the applicant will expend, during the academic year for which a payment is sought, for enhancing the functions of the Veterans Education Outreach Program, an amount equal to at least the amount of the award under this section from sources other than this or any other Federal program; and

(v) the applicant will submit to the Secretary such reports as the Secretary may require by regulation;

(B) contain such other statement of policies, assurances, and procedures as the Secretary may require by regulation in order to protect the financial interests of the United States; and

(C) set forth such plans, policies, assurances, and procedures as will ensure that the applicant will make an adequate effort—

(i) to maintain an office of veterans' affairs which has responsibility for veterans' outreach, recruitment, and special education programs, including the provision of educational, vocational, and personal counseling for veterans,

(ii) to carry out programs designed to prepare educationally disadvantaged veterans for postsecondary education under subchapter V of chapter 34 of title 38, United States Code,

(iii) to carry out active outreach (with special emphasis on service-connected disabled veterans, other disabled or handicapped veterans, incarcerated veterans, and educationally disadvantaged veterans), recruiting, and counseling activities through the use of funds available under federally assisted work-study programs (with special emphasis on the veteran-student services program under section 1685 of such title 38),

(iv) to carry out an active tutorial assistance program for veterans, including dissemination of information regarding such program, with special emphasis on making maximum use of the benefits available under section 1692 of such title 38, and

(v) to coordinate activities carried out under this part with the readjustment counseling program authorized under section 612A of title 38, United States Code, and with the programs of veterans employment and training authorized under the Job Training Partnership Act and under chapters 41 and 42 of title 38, United States Code, in order to assist in serving the readjustment, rehabilitation, personal counseling, and employment needs of veterans,

except that an institution which the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator of Veterans' Affairs (hereinafter referred to as the "Administrator"), cannot feasibly itself, in terms of the number of veterans in attendance there, carry out any or all of the programs set forth in clauses (i) through (v) of subparagraph (C), may carry out such program or programs through a consortium agreement with one or more other institutions of higher education and shall be required to carry out such programs only to the extent that the Secretary determines, in accordance with regulations jointly prescribed by the Secretary and the Administrator, is appropriate in terms of the number of veterans in attendance at such institution. The adequacy of efforts to meet the requirements of subparagraph (C) of this paragraph shall be determined by the Secretary, based upon the recommendations of the Administrator, in accordance with criteria established in regulations jointly prescribed by the Secretary and the Administrator.

(3) The Secretary shall not approve an application under this subsection unless he determines that the applicant will implement the requirements of subparagraph (C) of paragraph (1) within the first academic year during which it receives a payment under this section.

(4) Any institution which has been eligible under this section prior to September 30, 1985, for a continuous period of three of the last five years shall be determined eligible under the terms of this section.

(d) COORDINATION OF PROGRAMS.—The Secretary, in carrying out the provisions of this section, shall seek to assure the coordination of programs assisted under this section with programs carried out by the Veterans' Administration pursuant to title 38, United States Code, and the Administrator shall provide all assistance, technical consultation, and information otherwise authorized by law as necessary to promote the maximum effectiveness of the activities and programs assisted under this section.

(e) ADMINISTRATION OF PROGRAM.—The program provided for in this section shall be administered by an identifiable administrative unit in the Department.

(f) DISSEMINATION OF INFORMATION.—From the amounts appropriated for this section, the Secretary shall retain one percent or $10,000, whichever is less, for the purpose of collecting information about exemplary Veterans Educational Outreach Programs and disseminating that information to other institutions of higher education having such programs on their campuses. Such collection and dissemination shall be done on an annual basis.

(20 U.S.C. 1070e–1) Enacted June 23, 1972, P.L. 92–318, sec. 1001(a), 86 Stat. 378, 379; amended August 21, 1974, P.L. 93–380, sec. 835, 88 Stat. 604, 605; amended October 12, 1976, P.L. 94–482, sec. 126, 90 Stat. 2098; amended Aug. 4, 1978, P.L. 95–336, sec. 6, 92 Stat. 453; amended October 3, 1980, P.L. 96–374, sec. 407, 94 Stat. 1412; redesignated October 30, 1984, P.L. 98–558, sec. 801(b)(2), 98 Stat. 2902; amended October 17, 1986, P.L. 99–498, sec. 401(a), 100 Stat. 1348; amended June 3, 1987, P.L. 100–50, sec. 8, 101 Stat. 341.

SUBPART 8—SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

SPECIAL CHILD CARE SERVICES FOR DISADVANTAGED COLLEGE STUDENTS

SEC. 420B. (a) PROGRAM AUTHORITY.–Funds appropriated pursuant to subsection (c) shall be used by the Secretary to make grants to institutions of higher education to provide special child care services to disadvantaged students.

(b) APPLICATIONS.—Any institution wishing to receive a grant under this section shall submit an aplication to the Secretary. Such application shall include—

(1) a description of the program to be established;

(2) assurances by the applicant to the Secretary that—

(A) not less than two-thirds of the participants in the program are low-income indiviuals;

(B) the participants require the services to pursue successfully a program of education beyond high school;

(C) the participants are enroled at the institution which is the recipient of the grant;

(D) all participants will rceive sufficient assistance (under this subpart, other provisions of this title, or otherwise) to meet that student's full financial need for child care services related to such enollment; and

(E) the institution will meet such need of participants by providing child care through vouchers, contracted services, or direct provision of services; and

(3) such information (and meet such conditions) as may be required by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purpose of this section, $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(d) DEFINITION.—For purposes of this subpart, the term "low-income individual" means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using the criteria of poverty established by the Bureau of the Census.

(20 U.S.C. 1070f) Enacted October 17, 1986, P.L. 99-498, sec. 401(a), 100 Stat. 1352; amended June 3, 1987, P.L. 100-50, sec. 9, 101 Stat. 341.

PART B—GUARANTEED STUDENT LOAN PROGRAM

STATEMENT OF PURPOSE; NONDISCRIMINATION; AND APPROPRIATIONS AUTHORIZED

SEC. 421. (a) PURPOSE; DISCRIMINATION PROHIBITED.—

(1) PURPOSE.—The purpose of this part is to enable the Secretary—

(A) to encourage States and nonprofit private institutions and organizations to establish adequate loan insurance programs for students in eligible institutions (as defined in section 435),

(B) to provide a Federal program of student loan insurance for students or lenders who do not have reasonable access to a State or private nonprofit program of student loan insurance covered by an agreement under section 428(b),

(C) to pay a portion of the interest on loans to qualified students which are insured under this part, and

(D) to guarantee a portion of each loan insured under a program of a State or of a nonprofit private institution or organization which meets the requirements of section 428(a)(1)(B).

(2) DISCRIMINATION BY CREDITORS PROHIBITED.—No agency, organization, institution, bank, credit union, corporation, or other lender who regularly extends, renews, or continues credit or provides insurance under this part shall exclude from receipt or deny the benefits of, or discriminate against any borrower or applicant in obtaining, such credit or insurance on the basis of race, national origin, religion, sex, marital status, age, or handicapped status.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part—

(1) there are authorized to be appropriated to the student loan insurance fund (established by section 431) (A) the sum of $1,000,000, and (B) such further sums, if any, as may become necessary for the adequacy of the student loan insurance fund,

(2) there are authorized to be appropriated, for payments under section 428 with respect to interest on student loans and for payments under section 437, such sums for the fiscal year ending June 30, 1966, and succeeding fiscal years, as may be required therefor,

(3) there is authorized to be appropriated the sum of $17,500,000 for making advances pursuant to section 422 for the reserve funds of State and nonprofit private student loan insurance programs,

(4) there are authorized to be appropriated (A) the sum of $12,500,000 for making advances after June 30, 1968, pursuant to sections 422 (a) and (b), and (B) such sums as may be necessary for making advances pursuant to section 422(c), for the reserve funds of State and nonprofit private student loan insurance programs, and

(5) there are authorized to be appropriated such sums as may be necessary for the purpose of paying an administrative cost allowance in accordance with section 428(f) to guaranty agencies.

Sums appropriated under paragraphs (1), (2), (4), and (5) of this subsection shall remain available until expended. No additional sums are authorized to be appropriated under paragraph (3) or (4) of this subsection by reason of the reenactment of such paragraphs by the Higher Education Amendments of 1986.

(20 U.S.C. 1071) Enacted Nov. 8, 1965, P.L. 89-329, sec. 421, 79 Stat. 1236; amended Aug. 3, 1968, P.L. 90-460, secs. 2, 3, 82 Stat. 635-6; amended Oct. 16, 1968, P.L. 90-575, secs. 113, 114, 119, 82 Stat. 1020, 1021, 1027; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2099, 2100; amended June 15, 1977, P.L. 95-43, sec. 1 (a)(8), (a)(9), (a)(10), 91 Stat. 213; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended August 15, 1983, P.L. 98-79, sec. 6, 97 Stat. 482; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1353.

ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS

SEC. 422. (a) PURPOSE OF AND AUTHORITY FOR ADVANCES TO RESERVE FUNDS.—

(1) PURPOSE; ELIGIBLE RECIPIENTS.—From sums appropriated pursuant to paragraphs (3) and (4)(A) of section 421(b), the Secretary is authorized to make advances to any State with which the Secretary has made an agreement pursuant to section 428(b) for the purpose of helping to establish or strengthen the reserve fund of the student loan insurance program covered by that agreement. If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances for such year for the same purpose to one or more nonprofit private institutions or organizations with which the Secretary has made an agreement pursuant to section 428(b) in order to enable students in the State to participate in a program of student loan insurance covered by such an agreement. The Secretary may make advances under this subsection both to a State program (with which he has

such an agreement) and to one or more nonprofit private institutions or organizations (with which he has such an agreement) in that State if he determines that such advances are necessary in order that students in each eligible institution have access through such institution to a student loan insurance program which meets the requirements of section 428(b)(1).

(2) Matching requirement.—No advance shall be made after June 30, 1968, unless matched by an equal amount from non-Federal sources. Such equal amount may include the unencumbered non-Federal portion of a reserve fund. As used in the preceding sentence, the term "unencumbered non-Federal portion" means the amount (determined as of the time immediately preceding the making of the advance) of the reserve fund less the greater of—

(A) the sum of—

(i) advances made under this section prior to July 1, 1968;

(ii) an amount equal to twice the amount of advances made under this section after June 30, 1968, and before the advance for purposes of which the determination is made; and

(iii) the proceeds of earnings on advances made under this section; or

(B) any amount which is required to be maintained in such fund pursuant to State law or regulation, or by agreement with lenders, as a reserve against the insurance of outstanding loans.

(3) Terms and conditions; repayment.—Advances pursuant to this subsection shall be upon such terms and conditions (including conditions relating to the time or times of payment) consistent with the requirements of section 428(b) as the Secretary determines will best carry out the purpose of this section. Advances made by the Secretary under this subsection shall be repaid within such period as the Secretary may deem to be appropriate in each case in the light of the maturity and solvency of the reserve fund for which the advance was made.

(b) Limitations on Total Advances.—

(1) In general.—The total of the advances from the sums appropriated pursuant to paragraph (4)(A) of section 421(b) to nonprofit private institutions and organizations for the benefit of students in any State and to such State may not exceed an amount which bears the same ratio to such sums as the population of such State aged 18 to 22, inclusive, bears to the population of all the States aged 18 to 22 inclusive, but such advances may otherwise be in such amounts as the Secretary determines will best achieve the purposes for which they are made. The amount available for advances to any State shall not be less than $25,000 and any additional funds needed to meet this requirement shall be derived by proportionately reducing (but not below $25,000) the amount available for advances to each of the remaining States.

(2) Calculation of population.—For the purpose of this subsection, the population aged 18 to 22, inclusive, of each State and of all the States shall be determined by the Secre-

tary on the basis of the most recent satisfactory data available to him.

(c) ADVANCES FOR INSURANCE OBLIGATIONS.—

(1) USE FOR PAYMENT OF INSURANCE OBLIGATIONS.—From sums appropriated pursuant to section 421(b)(4)(B), the Secretary shall advance to each State which has an agreement with the Secretary under section 428(c) with respect to a student loan insurance program, an amount determined in accordance with paragraph (2) of this subsection to be used for the purpose of making payments under the State's insurance obligations under such program.

(2) AMOUNT OF ADVANCES.—(A) Except as provided in subparagraph (B), the amount to be advanced to each such State shall be equal to 10 percent of the principal amount of loans made by lenders and insured by such agency on those loans on which the first payment of principal became due during the fiscal year immediately preceding the fiscal year in which the advance is made.

(B) The amount of any advance determined according to subparagraph (A) of this paragraph shall be reduced by—

(i) the amount of any advance or advances made to such State pursuant to this subsection at an earlier date; and

(ii) the amount of the unspent balance of the advances made to a State pursuant to subsection (a).

Notwithstanding subparagraph (A) and the preceding sentence of this subparagraph, but subject to subparagraph (D) of this paragraph, the amount of any advance to a State described in paragraph (5)(A) for the first year of its eligibility under such paragraph, and the amount of any advance to any State described in paragraph (5)(B) for each year of its eligibility under such paragraph, shall not be less than $50,000.

(C) For the purpose of subparagraph (B), the unspent balance of the advances made to a State pursuant to subsection (a) shall be that portion of the balance of the State's reserve fund (remaining at the time of the State's first request for an advance pursuant to this subsection) which bears the same ratio to such balance as the Federal advances made and not returned by such State, pursuant to subsection (a), bears to the total of all past contributions to such reserve funds from all sources (other than interest on investment of any portion of the reserve fund) contributed since the date such State executed an agreement pursuant to section 428(b).

(D) If the sums appropriated for any fiscal year for paying the amounts determined under subparagraphs (A) and (B) are not sufficient to pay such amounts in full, then such amounts shall be reduced—

(i) by ratably reducing that portion of the amount allocated to each State which exceeds $50,000; and

(ii) if further reduction is required, by equally reducing the $50,000 minimum allocation of each State.

If additional sums become available for paying such amounts for any fiscal year during which the preceding sentence has been applied, such reduced amounts shall be increased on the same basis as they were reduced.

(3) Use of earnings for insurance obligations.—The earnings, if any, on any investments of advances received pursuant to this subsection must be used for making payments under the State's insurance obligations.

(4) Repayment of advances.—Advances made by the Secretary under this subsection shall, subject to subsection (d), be repaid within such period as the Secretary may deem to be appropriate and shall be deposited in the fund established by section 431.

(5) Limitation on number of advances.—Advances pursuant to this subsection shall be made to a State—

(A) in the case of a State which is actively carrying on a program under an agreement pursuant to section 428(b) which was entered into before October 12, 1976, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 2 succeeding calendar years after the date so requested; and

(B) in the case of a State which enters into an agreement pursuant to section 428(b) on or after October 12, 1976, or which is not actively carrying on a program under an agreement pursuant to such section on such date, upon such date as such State may request, but not before October 1, 1977, and on the same day of each of the 4 succeeding calendar years after the date so requested of the advance.

(6) Payment of advances where no State program.—(A) If for any fiscal year a State does not have a student loan insurance program covered by an agreement made pursuant to section 428(b), and the Secretary determines after consultation with the chief executive officer of that State that there is no reasonable likelihood that the State will have such a student loan insurance program for such year, the Secretary may make advances pursuant to this subsection for such year for the same purpose to one or more nonprofit private institutions or organizations with which he has made an agreement pursuant to subsection (c), as well as subsection (b), of section 428 and subparagraph (B) of this paragraph in order to enable students in that State to participate in a program of student loan insurance covered by such agreements.

(B) The Secretary may enter into an agreement with a private nonprofit institution or organization for the purpose of this paragraph under which such institution or organization—

(i) agrees to establish within such State at least one office with sufficient staff to handle written and telephone inquiries from students, eligible lenders, and other persons in the State, to encourage maximum commercial lender participation within the State, and to conduct periodic visits to at least the major eligible lenders within the State;

(ii) agrees that its insurance will not be denied any student because of his or her choice of eligible institutions; and

(iii) certifies that it is neither an eligible institution, nor has any substantial affiliation with an eligible institution.

(d) RECOVERY OF ADVANCES DURING FISCAL YEARS 1988 AND 1989.—

(1) AMOUNT AND USE OF RECOVERED FUNDS.—Notwithstanding any other provision of this section, advances made by the Secretary under this section shall be repaid in accordance with this subsection and shall be deposited in the fund established by section 431. The Secretary shall, in accordance with the requirements of paragraph (2), recover (and so deposit) an amount equal to $75,000,000 during fiscal year 1988 and an amount equal to $35,000,000 for fiscal year 1989.

(2) DETERMINATION OF GUARANTY AGENCY OBLIGATIONS.—In determining the amount of advances which shall be repaid by a guaranty agency under paragraph (1), the Secretary—

(A) shall consider the solvency and maturity of the reserve and insurance funds of the guaranty agency assisted by such advances, as determined by the Comptroller General taking into account the requirements of State law as in effect on the date of enactment of the Higher Education Amendments of 1986;

(B) shall not seek repayment of such advances from any State described in subsection (c)(5)(B) during any year of its eligibility under such subsection; and

(C) shall not seek repayment of such advances from any State if such repayment encumbers the reserve fund requirement of State law as in effect on such date of enactment.

(20 U.S.C. 1072) Enacted Nov. 8, 1965, P.L. 89–329, sec. 422, 79 Stat. 1236; amended Nov. 3, 1966, P.L. 89–752, sec. 11, 80 Stat. 1243; amended Oct. 16, 1968, P.L. 90–575, sec. 114, 82 Stat. 1021; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2100, 2101, 2102, 2103; amended June 15, 1977, P.L. 95–43, sec. 1(a)(11)(A), (B), (C), (a)(12), (a)(13), 91 Stat. 213, 214; amended Nov. 1, 1978, P.L. 95–561, sec. 1322(a), 92 Stat 2363; amended Oct. 3, 1980, P.L. 96–374, sec. 1391, 94 Stat. 1503; amended April 7, 1986, P.L. 99–272, sec. 16011, 100 Stat. 339; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1354.

EFFECTS OF ADEQUATE NON-FEDERAL PROGRAMS

SEC. 423. (a) FEDERAL INSURANCE BARRED TO LENDERS WITH ACCESS TO STATE OR PRIVATE INSURANCE.—Except as provided in subsection (b), the Secretary shall not issue certificates of insurance under section 429 to lenders in a State if the Secretary determines that every eligible institution has reasonable access in that State to a State or private nonprofit student loan insurance program which is covered by an agreement under section 428(b).

(b) EXCEPTIONS.—The Secretary may issue certificates of insurance under section 429 to a lender in a State—

(1) for insurance of a loan made to a student borrower who does not, by reason of the borrower's residence, have access to loan insurance under the loan insurance program of such State (or under any private nonprofit loan insurance program which has received an advance under section 422 for the benefit of students in such State);

(2) for insurance of all the loans made to student borrowers by a lender who satisfies the Secretary that, by reason of the residence of such borrowers, such lender will not have access to any single State or nonprofit private loan insurance pro-

gram which will insure substantially all of the loans such lender intends to make to such student borrowers; or

(3) under such circumstances as may be approved by the guaranty agency in such State, for the insurance of a loan to a borrower for whom such lender previously was issued such a certificate if the loan covered by such certificate is not yet repaid.

(20 U.S.C. 1073) Enacted Nov. 8, 1965, P.L. 89-329, sec. 423, 79 Stat. 1237; amended Oct. 16, 1968, P.L. 90-575, sec. 119, 82 Stat. 1026; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2103; amended June 15, 1977, P.L. 95-43, sec. 1(a)(14), 91 Stat. 214; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1358.

SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM

SEC. 424. (a) LIMITATIONS ON AMOUNTS OF LOANS COVERED BY FEDERAL INSURANCE.—The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 435) to students covered by Federal loan insurance under this part shall not exceed $2,000,000,000 for the period from July 1, 1976, to September 30, 1976, and for each of the succeeding fiscal years ending prior to October 1, 1992. Thereafter, Federal loan insurance pursuant to this part may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this part, to continue or complete their educational program; but no insurance may be granted for any loan made or installment paid after September 30, 1997.

(b) APPORTIONMENT OF AMOUNTS.—The Secretary may, if he or she finds it necessary to do so in order to assure an equitable distribution of the benefits of this part, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

(20 U.S.C. 1074) Enacted Nov. 8, 1965, P.L. 89-329, sec. 424, 79 Stat. 1237; amended Aug. 3, 1968, P.L. 90-460, sec. 1, 82 Stat. 634; amended Oct. 16, 1968, P.L. 90-575, sec. 112, 82 Stat. 1020; amended June 23, 1972, P.L. 92-318, sec. 132(a), 86 Stat. 261; amended June 30, 1976, P.L. 94-328, sec. 2(a), 90 Stat. 727; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2103, 2104; amended October 3, 1980, P.L. 96-374, secs. 411, 1391, 94 Stat. 1415, 1503; amended April 7, 1986, P.L. 99-272, sec. 16018(a), 100 Stat. 348; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1358.

LIMITATIONS ON INDIVIDUAL FEDERALLY INSURED LOANS AND ON FEDERAL LOAN INSURANCE

SEC. 425. (a) ANNUAL AND AGGREGATE LIMITS.—

(1) ANNUAL LIMITS.—(A) The total of loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this part may not exceed—

(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; or

(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary).

(B) The annual insurable limits contained in subparagraph (A) shall not apply in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education. The annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

(2) Aggregate limits.—(A) The aggregate insured unpaid principal amount for all such insured loans made to any student shall not at any time exceed—

(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such person before he or she became a graduate or professional student), excluding loans made under section 428A or 428B.

(B) The Secretary may increase the aggregate insurable limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.

(b) Level of Insurance Coverage Based on Default Rate.—

(1) Reduction for defaults in excess of 5 or 9 percent.—(A) Except as provided in subparagraph (B), the insurance liability on any loan insured by the Secretary under this part shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest, except that—

(i) if, for any fiscal year, the total amount of payments under section 430 by the Secretary to any eligible lender as described in section 435(d)(1)(D) exceeds 5 percent of the sum of the loans made by such lender which are insured by the Secretary and which were in repayment at the end of the preceding fiscal year, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 90 percent of the amount of such portion; or

(ii) if, for any fiscal year, the total amount of such payments to such a lender exceeds 9 percent of such sum, the insurance liability under this subsection for that portion of such excess which represents loans insured after the applicable date with respect to such loans, as determined under subparagraph (C), shall be equal to 80 percent of the amount of such portion.

(B) Notwithstanding subparagraph (A), the provisions of clauses (i) and (ii) of such subparagraph shall not apply to an eligible lender as described in section 435(d)(1)(D) for the fiscal year in which such lender begins to carry on a loan program insured by the Secretary, or for any of the 4 succeeding fiscal years.

(C) The applicable date with respect to a loan made by an eligible lender as described in section 435(d)(1)(D) shall be—

(i) the 90th day after the adjournment of the next regular session of the appropriate State legislature which convenes after the date of enactment of the Education Amendments of 1976, or

(ii) if the primary source of lending capital for such lender is derived from the sale of bonds, and the constitution of the appropriate State prohibits a pledge of such State's credit as security against such bonds, the day which is one year after such 90th day.

(2) Computation of amounts in repayment.—For the purpose of this subsection, the sum of the loans made by a lender which are insured by the Secretary and which are in repayment shall be the original principal amount of loans made by such lender which are insured by the Secretary reduced by—

(A) the amount the Secretary has been required to pay to discharge his or her insurance obligations under this part;

(B) the original principal amount of loans insured by the Secretary which have been fully repaid;

(C) the original principal amount insured on those loans for which payment of first installment of principal has not become due pursuant to section 427(a)(2)(B) or such first installment need not be paid pursuant to section 427(a)(2)(C); and

(D) the original principal amount of loans repaid by the Secretary under section 437.

(3) Payments to assignees.—For the purpose of this subsection, payments by the Secretary under section 430 to an assignee of the lender with respect to a loan shall be deemed payments made to such lender.

(4) Pledge of full faith and credit.—The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 430 or 437 of this part.

(20 U.S.C. 1075) Enacted Nov. 8, 1965, P.L. 89-329, sec. 425, 79 Stat. 1238; amended Oct. 16, 1968, P.L. 90-575, secs. 116, 120, 82 Stat. 1023 and 1027; amended June 23, 1972, P.L. 92-318, sec. 132(a), 86 Stat. 261; further amended June 23, 1972, P.L. 92-318, sec. 132B(a), 86 Stat. 262; amended Oct. 12, 1976, sec. 127(a), 90 Stat. 2104, 2105; amended June 15, 1977, P.L. 95-43, sec. 1 (a)(15), (a)(16), (a)(17), 91 Stat. 214; amended November 1, 1978, P.L. 95-566, sec. 5(b)(2), 92 Stat. 2403; amended October 3, 1980, P.L. 96-374, secs. 412, 1391, 94 Stat. 1416, 1503; as amended August 13, 1981, P.L. 97-35, sec. 535 (a), (b), 95 Stat. 455; amended April 7, 1986, P.L. 99-272, sec. 16013(e)(1), 100 Stat. 340; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1359; amended June 3, 1987, P.L. 100-50, sec. 10(a), 101 Stat. 341.

SOURCES OF FUNDS

Sec. 426. Loans made by eligible lenders in accordance with this part shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

(20 U.S.C. 1076) Enacted Nov. 8, 1965, P.L. 89-329, sec. 426, 79 Stat. 1238; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2106; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1361.

ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS

SEC. 427. (a) LIST OF REQUIREMENTS.—Except as provided in section 428C, a loan by an eligible lender shall be insurable by the Secretary under the provisions of this part only if—

(1) made to a student who (A) is an eligible student under section 484, (B) has agreed to notify promptly the holder of the loan concerning any change of address, and (C) is carrying at least one-half the normal full-time academic workload for the course of study the student is pursuing (as determined by the institution); and

(2) evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement may be required;

(B) provides for repayment (except as provided in subsection (c)) of the principal amount of the loan in installments over a period of not less than 5 years (unless sooner repaid or unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, except—

(i) as provided in subparagraph (C);

(ii) that the note or other written instrument may contain such reasonable provisions relating to repayment in the event of default in the payment of interest or in the payment of the cost of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made; and

(iii) that the lender and the student, after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution, may agree to a repayment schedule which begins earlier, or is of shorter duration, than required by this subparagraph, but in the event a borrower has requested and obtained a repayment period of less than 5 years, the borrower may at any time prior to the total repayment of the loan, have the repayment period extended so that the total repayment period is not less than 5 years;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower (I) is pursuing a full-time course of study at an eligible institution, (II) is pursuing at least a half-time course of study (as determined by such institution) during an enrollment period for which the student has obtained a loan under this part, or (III) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

(ii) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

(iii) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

(iv) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(v) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

(vi) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or nonprofit private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to section 428(b)(4);

(vii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training;

(viii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

(ix) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

(x) not in excess of 6 months of parental leave; or

(xi) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938, and that any such period shall not be included in determining the 10-year period provided in subparagraph (B);

(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed in section 427A, which interest shall be payable in installments over the period of the loan except that, if provided in the note or other written agreement, any interest payable by the student may be deferred until not later than the date upon which repayment of the first installment of principal falls due, in which case interest accrued during that period may be added on that date to the principal;

(E) provides that the lender will not collect or attempt to collect from the borrower any portion of the interest on the note which is payable by the Secretary under this part, and that the lender will enter into such agreements with the Secretary as may be necessary for the purpose of section 437;

(F) entitles the student borrower to accelerate without penalty repayment of the whole or any part of the loan;

(G)(i) contains a notice of the system, of disclosure of information concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations; and

(H) contains such other terms and conditions, consistent with the provisions of this part and with the regulations issued by the Secretary pursuant to this part, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan;

(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this title shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check; and

(4) in the case of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of $1,000 or more, the proceeds of the loan will, subject to subsection (b), be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment).

(b) Special Rules for Multiple Disbursement.—For the purpose of subsection (a)(4)—

(1) all loans issued for the same period of enrollment shall be considered as a single loan; and

(2) the requirements of such subsection shall not apply in the case of a loan made under section 428A, 428B, or 428C, or made to a student to cover the cost of attendance at an eligible institution outside the United States.

(c) MINIMUM REPAYMENT RATE.—The total of the payments by a borrower during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less.

(20 U.S.C. 1077) Enacted Nov. 8, 1965, P.L. 89-320, sec. 427, 79 Stat. 1238; amended Nov. 8, 1966, P.L. 89-794, sec. 1101(b), 80 Stat. 1476; amended Aug. 3, 1968, P.L. 90-460, sec. 2, 82 Stat. 635; amended Oct. 16, 1968, P.L. 90-575, secs. 113, 116, 120, 82 Stat. 1021, 1023, 1027; amended June 23, 1972, P.L. 92-318, sec. 132B(b), 86 Stat. 262; further amended June 23, 1972, P.L. 92-318, sec. 132C(c), 86 Stat. 263; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2107, 2108; amended June 15, 1977, P.L. 95-43, sec. 1(a)(9), 91 Stat. 213; sec. 1(a)(18), 91 Stat. 214; amended November 1, 1978, P.L. 95-566, sec. 5(a)(1), 92 Stat. 2403; amended October 3, 1980, P.L. 96-374, secs. 413(a), 413(c), 415(a)(2), 415(b)(1), 416(a)(2), 423(a)(1), 1391, 94 Stat. 1417, 1418, 1419, 1420, 1421, 1432, 1503; amended August 31, 1981, P.L. 97-35, sec. 537 (b)(1), (d)(2), (e)(1), 95 Stat. 456, 457; amended August 15, 1983, P.L. 98-79, sec. 10, 97 Stat. 484; amended April 7, 1986, P.L. 99-272, secs. 16012(a), 16013(b), 16017(b)(1), 100 Stat. 339, 340, 343; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1361; amended June 3, 1987, P.L. 100-50, sec. 10(b), (c), 101 Stat. 341.

APPLICABLE INTEREST RATES

SEC. 427A. (a) RATES TO BE CONSISTENT FOR BORROWER'S ENTIRE DEBT.—With respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, the rate of interest applicable to any borrower shall—

(1) not exceed 7 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has an outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, for which the interest rate does not exceed 7 percent;

(2) except as provided in paragraph (3), be 9 percent per year on the unpaid principal balance of the loan in the case of any borrower who, on the date of entering into the note or other written evidence of that loan, has no outstanding balance of principal or interest on any loan described in paragraph (1) or any loan for which the interest rate is determined under paragraph (1); or

(3) be 8 percent per year on the unpaid principal balance of the loan for a loan to cover the cost of education for any period of enrollment beginning on or after a date which is 3 months after a determination made under subsection (b) in the case of any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan for which the interest rate is determined under paragraph (1) or (2) of this subsection.

(b) Reduction for New Borrowers After Decline in Treasury Bill Rates.—If for any 12-month period beginning on or after January 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 9 percent, the interest rate for loans under this part shall be the rate prescribed in subsection (a)(3) for borrowers described in such subsection.

(c) Rates for Supplemental Loans for Students and Loans for Parents.—

(1) In general.—Except as otherwise provided in this subsection, the applicable rate of interest on loans made pursuant to section 428A or 428B on or after October 1, 1981, shall be 14 percent per year on the unpaid principal balance of the loan.

(2) Reduction of rate after decline in treasury bill rates.—If for any 12-month period beginning on or after October 1, 1981, the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period is equal to or less than 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B on and after the first day of the first month beginning after the date of publication of such determination shall be 12 percent per year on the unpaid principal balance of the loan.

(3) Increase of rate after increase in treasury bill rates.—If for any 12-month period beginning on or after the date of publication of a determination under paragraph (2), the Secretary, after consultation with the Secretary of the Treasury, determines that the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 12-month period exceeds 14 percent, the applicable rate of interest for loans made pursuant to section 428A or 428B on and after the first day of the first month beginning after the date of publication of that determination under this paragraph shall be 14 percent per year on the unpaid principal balance of the loan.

(4) Availability of variable rates.—(A) For any loan made pursuant to section 428A or 428B and disbursed on or after July 1, 1987, or any loan made pursuant to such section prior to such date that is refinanced pursuant to section 428A(d) or 428B(d), the applicable rate of interest during any 12-month period beginning on July 1 and ending on June 30 shall be determined under subparagraph (B), except that such rate shall not exceed 12 percent.

(B) For any 12-month period beginning on July 1 and ending on June 30, the rate determined under this subparagraph is determined on the preceding June 1 and is equal to—

(i) the bond equivalent rate of 52-week Treasury bills auctioned at the final auction held prior to such June 1; plus

(ii) 3.25 percent.

(C) The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.

(d) Interest Rates for New Borrowers After July 1, 1988.—Notwithstanding subsections (a) and (b) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B, and 428C) to cover the cost of instruction for any period of enrollment beginning on or after July 1, 1988, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall be—

(1) 8 percent per year on the unpaid principal balance of the loan during the period beginning on the date of the disbursement of the loan and ending 4 years after the commencement of repayment; and

(2) 10 percent per year on the unpaid principal balance of the loan during the remainder of the repayment period.

(e) Treatment of Excess Interest Payments on New Borrower Accounts Resulting From Decline in Treasury Bill Rates.—

(1) In general.—If, with respect to a loan for which the applicable interest rate is 10 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 10 percent, then an adjustment shall be made to a borrower's account—

(A) by calculating excess interest in the amount computed under paragraph (2) of this subsection; and

(B) by crediting the excess interest to the reduction of principal to the extent provided for under paragraph (3) of this subsection.

(2) Amount of adjustment.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

(A) 10 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

(B) the outstanding principal balance of the loan (not including unearned interest added to principal) at the end of such calendar quarter; divided by

(C) four.

(3) Annual adjustment of interest and borrower eligibility for credit.—Any adjustment amount computed pursuant to paragraph (2) of this subsection for any quarter shall be credited, by the holder of the loan on the last day of the calendar year in which such quarter falls, to the loan account of the borrower so as to reduce the principal balance of such account. No such credit shall be made to the loan account of a borrower who on the last day of the calendar year is delinquent for more than 30 days in making a required payment on the loan. Any credit which is to be made to a borrower's account pursuant to this subsection shall be made effective commencing no later than 30 days following the last day of the calendar year in which the quarter falls for which the credit is being made. Nothing in this subsection shall be construed to require refunding any repayment of a loan. At the option of the lender, the amount of such adjustment may be distributed to the bor-

rower either by reduction in the amount of the periodic payment on the loan, or by reducing the number of payments that shall be made with respect to the loan.

(4) Publication of treasury bill rate.—For the purpose of enabling holders of loans to make the determinations and adjustments provided for in this subsection, the Secretary shall for each calendar quarter commencing with the quarter beginning on July 1, 1987, publish a notice of the average of the bond equivalent rates of 91-day Treasury bills auctioned for such quarter. Such notice shall be published not later than 7 days after the end of the quarter to which the notice relates.

(5) Study of treatment of excess interest payments provisions.—The Secretary shall examine and evaluate the provisions of this subsection, and not later than 6 months after the date of enactment of the Higher Education Amendments of 1986, prepare and submit to the Congress such legislative proposals as the Secretary determines are necessary to carry out the objectives of this subsection.

(f) Lesser Rates Permitted.—Nothing in this section or section 428C shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

(g) Definitions.—For the purpose of subsections (a) and (d) of this section—

(1) the term "period of instruction" shall, at the discretion of the lender, be any academic year, semester, trimester, quarter, or other academic period; or shall be the period for which the loan is made as determined by the institution of higher education; and

(2) the term "period of enrollment" shall be the period for which the loan is made as determined by the institution of higher education and shall coincide with academic terms such as academic year, semester, trimester, quarter, or other academic period as defined by such institution.

(20 U.S.C. 1077a) Enacted October 3, 1980, P.L. 96-374, sec. 415(a)(1), 94 Stat. 1419; amended August 13, 1981, P.L. 97-35, sec. 534(a)(1), Stat. 454; amended August 15, 1983, P.L. 98-79, sec. 5, 97 Stat. 481; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1364; amended June 3, 1987, P.L. 100-50, sec. 10(d)(1), 101 Stat. 342.

FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS

Sec. 428. (a) Federal Interest Subsidies.—

(1) Types of loans that qualify.—Each student who has received a loan for study at an eligible institution—

(A) which is insured by the Secretary under this part; or

(B) which is insured under a program of a State or of a nonprofit private institution or organization which was contracted for, and paid to the student, within the period specified in paragraph (5), and which—

(i) in the case of a loan insured prior to July 1, 1967, was made by an eligible lender and is insured under a program which meets the requirements of subparagraph (E) of subsection (b)(1) and provides that repayment of such loan shall be in installments beginning not earlier than 60 days after the student ceases to pursue a course of study (as described in subparagraph (D) of subsection (b)(1)) at an eligible institution, or

(ii) in the case of a loan insured after June 30, 1967, was made by an eligible lender and is insured under a program covered by an agreement made pursuant to subsection (b),

shall be entitled to have paid on his or her behalf and for his or her account to the holder of the loan a portion of the interest on such loan under circumstances described in paragraph (2).

(2) ADDITIONAL REQUIREMENTS TO RECEIVE SUBSIDY.—(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall—

(i) have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which the student is in attendance, which—

(I) sets forth such student's estimated cost of attendance (as determined under section 472); and

(II) sets forth such student's estimated financial assistance; and

(ii) meet the requirements of subparagraph (B).

(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if the eligible institution has provided the lender with a statement evidencing a determination of need for a loan (as determined under part F of this title) and the amount of such need, subject to the provisions of subparagraph (D).

(C) For the purpose of paragraph (1) and this paragraph—

(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 2 of part A, and parts C and E of this title, and any amount paid the student under chapters 32, 34, and 35 of title 38, United States Code, plus other scholarship, grant, or loan assistance; and

(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated by subtracting from the estimated cost of attendance at the eligible institution the total of the expected family contribution with respect to such student plus any estimated financial assistance reasonably available to such student.

(D) An eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, provide a statement which certifies the eligibility of any student to receive any loan under this part in excess of the maximum amount applicable to such loan.

(E) For the purpose of subparagraphs (B) and (C) of this paragraph, any loan obtained by a student under section 428A or a parent under section 428B of this Act or under any State-sponsored or private loan program for an academic year for which the determination is made may be used to offset the expected family contribution of the student for that year.

(F) Except as provided in subparagraph (D), an eligible institution may not, in carrying out the provisions of subparagraphs (A) and (B) of this paragraph, refuse to provide to any eligible lender which has an agreement under subsection (b) of this section with any guaranty agency, a statement which permits a student to receive any loan under this part.

(3) AMOUNT OF INTEREST SUBSIDY.—(A)(i) Subject to section 438(c), the portion of the interest on a loan which a student is entitled to have paid, on behalf of and for the account of the student, to the holder of the loan pursuant to paragraph (1) of this subsection shall be equal to the total amount of the interest on the unpaid principal amount of the loan—

(I) which accrues prior to the beginning of the repayment period of the loan, or

(II) which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in subsection (b)(1)(M) of this section or in section 427(a)(2)(C).

(ii) Such portion of the interest on a loan shall not exceed, for any period, the amount of the interest on that loan which is payable by the student after taking into consideration the amount of any interest on that loan which the student is entitled to have paid on his or her behalf for that period under any State or private loan insurance program.

(iii) The holder of a loan with respect to which payments are rgquired to be made under this section shall be deemed to have a contractual right, as against the United States, to receive from the Secretary the portion of interest which has been so determined without administrative delay after the receipt by the Secretary of an accurate and complete request for payment pursuant to paragraph (4).

(iv) The Secretary shall pay this portion of the interest to the holder of the loan on behalf of and for the account of the borrower at such times as may be specified in regulations in force when the applicable agreement entered into pursuant to subsection (b) was made, or, if the loan was made by a State or is insured under a program which is not covered by such an agreement, at such times as may be specified in regulations in force at the time the loan was paid to the student.

(B) If—

(i) a State student loan insurance program is covered by an agreement under subsection (b),

(ii) a statute of such State limits the interest rate on loans insured by such program to a rate which is less than the applicable interest rate under this part, and

(iii) the Secretary determines that subsection (d) does not make such statutory limitation inapplicable and that such statutory limitation threatens to impede the carrying out of the purpose of this part,

then the Secretary may pay an administrative cost allowance to the holder of each loan which is insured under such program and which is made during the period beginning on the 60th day after the date of enactment of the Higher Education Amendments of 1968 and ending 120 days after the adjournment of such State's first regular legislative session which adjourns after January 1, 1969. Such administrative cost allowance shall be paid over the term of the loan in an amount per year (determined by the Secretary) which shall not exceed 1 percent of the unpaid principal balance of the loan.

(4) SUBMISSION OF STATEMENTS BY HOLDERS ON AMOUNT OF PAYMENT.—Each holder of a loan with respect to which payments of interest are required to be made by the Secretary shall submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which he must make with respect to that loan.

(5) DURATION OF AUTHORITY TO MAKE INTEREST SUBSIDIZED LOANS.—The period referred to in subparagraph (B) of paragraph (1) of this subsection shall begin on the date of enactment of this Act and end at the close of September 30, 1992, except that, in the case of a loan made or insured under a student loan or loan insurance program to enable a student who has obtained a prior loan made or insured under such program to continue his or her education program, such period shall end at the close of September 30, 1997.

(6) ASSESSMENT OF BORROWER'S FINANCIAL CONDITION NOT PROHIBITED OR REQUIRED.—Nothing in this or any other Act shall be construed to prohibit or require, unless otherwise specifically provided by law, a lender to evaluate the total financial situation of a student making application for a loan under this part, or to counsel a student with respect to any such loan, or to make a decision based on such evaluation and counseling with respect to the dollar amount of any such loan.

(b) INSURANCE PROGRAM AGREEMENTS TO QUALIFY LOANS FOR INTEREST SUBSIDIES.—

(1) REQUIREMENTS OF INSURANCE PROGRAM.—Any State or any nonprofit private institution or organization may enter into an agreement with the Secretary for the purpose of entitling students who receive loans which are insured under a student loan insurance program of that State, institution, or organization to have made on their behalf the payments provided for in subsection (a) if the Secretary determines that the student loan insurance program—

(A) authorizes the insurance in any academic year or its equivalent (as determined under regulations of the Secretary) for any student who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution) in any amount up to a maximum of—

(i) $2,625, in the case of a student who has not successfully completed the first and second year of a program of undergraduate education;

(ii) $4,000, in the case of a student who has successfully completed such first and second year but who has not successfully completed the remainder of a program of undergraduate education; and

(iii) $7,500, in the case of a graduate or professional student (as defined in regulations of the Secretary);

except in cases where the Secretary determines, pursuant to regulations, that a higher amount is warranted in order to carry out the purpose of this part with respect to students engaged in specialized training requiring exceptionally high costs of education, but the annual insurable limit per student shall not be deemed to be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any years in excess of the annual limit;

(B) provides that the aggregate insured unpaid principal amount for all such insured loans made to any student shall be any amount up to a maximum of—

(i) $17,250, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

(ii) $54,750, in the case of any graduate or professional student (as defined by regulations of the Secretary and including any loans which are insured by the Secretary under this part, or by a guaranty agency, made to such student before the student became a graduate or professional student), excluding loans made under section 428A or 428B;

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive;

(C) authorizes the insurance of loans to any individual student for at least 6 academic years of study or their equivalent (as determined under regulations of the Secretary);

(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) except as provided in subparagraph (M) of this paragraph, the repayment period of any insured loan may not exceed 10 years, and (iii) the note or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

(E) subject to subparagraphs (D) and (L) of this paragraph and except as provided by subparagraph (M) of this paragraph, provides that repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;

(F) authorizes interest on the unpaid balance of the loan at a yearly rate not in excess (exclusive of any premium for insurance which may be passed on to the borrower) of the rate required by section 427A;

(G) insures not less than 100 percent of the unpaid principal of loans insured under the program;

(H) provides for collection of a single insurance premium equal to not more than 3 percent of the principal amount of the loan, by deduction proportionately from each installment payment of the proceeds of the loan to the borrower, and insures that the proceeds of the premium will not be used for incentive payments to lenders;

(I) provides that the benefits of the loan insurance program will not be denied any student who is eligible for interest benefits under subsection (a) (1) and (2);

(J) provides that a student may obtain insurance under the program for a loan for any year of study at an eligible institution;

(K) in the case of a State program, provides that such State program is administered by a single State agency, or by one or more nonprofit private institutions or organizations under supervision of a single State agency;

(L) provides that the total of the payments by a borrower—

(i) during any year of any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this part shall not, unless the borrower and the lender otherwise agree, be less than $600 or the balance of all such loans (together with interest thereon), whichever amount is less, except that, in the case of a husband and wife, both of whom have such loans outstanding, the total of the combined payments for such a couple during any year shall not be less than $600 or the balance of all such loans, whichever is less; and

(ii) for a monthly or other similar payment period with respect to the aggregate of all loans held by the lender may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

(i) during which the borrower (I) is pursuing a full-time course of study as determined by an eligible institution, (II) is pursuing at least a half-time course of study (as determined by such institution) for which the student has obtained a loan under this part, or (III) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary;

(ii) not in excess of 3 years during which the borrower is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

(iii) not in excess of 3 years during which the borrower is in service as a volunteer under the Peace Corps Act;

(iv) not in excess of 3 years during which the borrower is in service as a full-time volunteer under the Domestic Volunteer Service Act of 1973;

(v) not in excess of 3 years during which the borrower is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

(vi) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or nonprofit private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;

(vii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training;

(viii) not in excess of 3 years during which the borrower is temporarily totally disabled, as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

(ix) not in excess of 24 months, at the request of the borrower, during which the borrower is seeking and unable to find full-time employment;

(x) not in excess of 6 months of parental leave; and

(xi) not in excess of 12 months for mothers with preschool age children who are just entering or reentering the work force and who are compensated at a rate not exceeding $1 in excess of the rate prescribed under section 6 of the Fair Labor Standards Act of 1938;

(N) provides that funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except nothing in this title shall be interpreted to allow the Secretary to require checks to be made co-payable to the institution and the borrower or to prohibit the disbursement of loan proceeds by means other than by check and except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student;

(O) provides that the proceeds of any loan made for any period of enrollment that ends more than 180 days (or 6 months) after the date disbursement is scheduled to occur, and for an amount of $1,000 or more—

(i) will be disbursed directly by the lender in two or more installments, none of which exceeds one-half of the loan, with the second installment being disbursed after not less than one-third of such period (except as necessary to permit the second installment to be disbursed at the beginning of the second semester, quarter, or similar division of such period of enrollment), or

(ii) will be disbursed in such installments pursuant to the escrow provisions of subsection (i) of this section,

but all loans issued for the same period of enrollment shall be considered as a single loan for the purpose of this subparagraph and the requirements of this subparagraph shall not apply in the case of a loan made under section 428A, 428B, or 428C, or made to a student to cover the cost of attendance at an eligible institution outside the United States;

(P) requires the borrower to notify the institution concerning any change in local address during enrollment and requires the borrower and the institution at which the borrower is in attendance promptly to notify the holder of the loan, directly or through the guaranty agency, concerning (i) any change of permanent address, (ii) when the student ceases to be enrolled on at least a half-time basis, and (iii) any other change in status, when such change in status affects the student's eligibility for the loan;

(Q) provides for the guarantee of loans made to students and parents under sections 428A and 428B;

(R) with respect to lenders which are eligible institutions, provides for the insurance of loans by only such institutions as are located within the geographic area served by such guaranty agency;

(S) provides no restrictions with respect to the insurance of loans for students who are otherwise eligible for loans under such program if such a student is accepted for enrollment in or is attending an eligible institution within the State, or if such a student is a legal resident of the State and is accepted for enrollment in or is attending an eligible institution outside that State;

(T) provides no restrictions with respect to eligible institutions (other than nonresidential correspondence schools) which are more onerous than eligibility requirements for institutions under the Federal student loan insurance program as in effect on January 1, 1985, unless—

(i) that institution is ineligible under regulations for the limitation, suspension, or termination of eligible institutions under the Federal student loan insurance program or is ineligible pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility issued under the Federal student loan insurance program; or

(ii) there is a State constitutional prohibition affecting the eligibility of such an institution; and

(U) provides (i) for the eligibility of all lenders described in section 435(d)(1) under reasonable criteria, unless (I) that lender is eliminated as a lender under regulations for the limitation, suspension, or termination of a lender under the Federal student loan insurance program or is eliminated as a lender pursuant to criteria issued under the student loan insurance program which are substantially the same as regulations with respect to such eligibility as a lender issued under the Federal student loan insurance program, or (II) there is a State constitutional prohibition affecting the eligibility of a lender, and (ii) assurances that the guaranty agency will report to the Secretary concerning changes in such criteria, including any procedures in effect under such program to limit, suspend, or terminate lenders.

(2) Contents of insurance program agreement.—Such an agreement shall—

(A) provide that the holder of any such loan will be required to submit to the Secretary, at such time or times and in such manner as the Secretary may prescribe, statements containing such information as may be required by or pursuant to regulation for the purpose of enabling the Secretary to determine the amount of the payment which must be made with respect to that loan;

(B) include such other provisions as may be necessary to protect the United States from the risk of unreasonable loss and promote the purpose of this part, including such provisions as may be necessary for the purpose of section 437, and as are agreed to by the Secretary and the guaranty agency, as the case may be;

(C) provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide for—

(i) conducting, except as provided in clause (ii), financial and compliance audits of the guaranty agency at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to a guaranty program of a State which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period of time covered by such audit; and

(E) provide that any guaranty agency may transfer loans which are insured under this part to any other guaranty agency with the approval of the holder of the loan and such other guaranty agency.

(3) Restrictions on inducements, mailings, and advertising.—A guaranty agency shall not—

(A) offer, directly or indirectly, premiums, payments, or other inducements to any educational institution or its employees in order to secure applicants for loans under this part;

(B) conduct unsolicited mailings to students enrolled in secondary school of student loan application forms; or

(C) conduct fraudulent or misleading advertising concerning loan availability.

(4) Targeted teacher deferment rule.—(A) The deferment for service as a teacher in a public or nonprofit private elementary or secondary school shall be for service as such a teacher in shortage areas prescribed by the Secretary, in consultation with the chief State school officer or, in the case of nonprofit private elementary or secondary schools, with appropriate officials of the nonprofit private schools in each State in accordance with this subparagraph.

(B) For the purpose of this paragraph, the term "shortage areas" means (i) geographic areas of the State in which there is a shortage of elementary and secondary school teachers, and (ii) an area of shortage of elementary and secondary school teachers in specific grade levels and in specific academic, instructional, subject matter, and discipline classifications. In carrying out the provisions of this subparagraph, the Secretary shall give special consideration to areas in which emergency certification of individuals in a State is being used to correct teacher shortages; and to States which have retirement laws permitting early retirement.

(5) Special rule.—For the purpose of paragraph (1)(M)(i)(III) of this subsection, the Secretary shall approve any course of study at a foreign university that is accepted for the completion of a recognized international fellowship program by the administrator of such a program.

(6) Guaranty agency information transfers.—(A) Until such time as the Secretary has implemented section 485B and is able to provide to guaranty agencies the information required by such section, any guaranty agency may request information regarding loans made after January 1, 1987, to students who are residents of the State for which the agency is the designated guarantor, from any other guaranty agency insuring loans to such students.

(B) Upon a request pursuant to subparagraph (A), a guaranty agency shall provide—

(i) the name and the social security number of the borrower; and

(ii) the amount borrowed and the cumulative amount borrowed.

(C) Any costs associated with fulfilling the request of a guaranty agency for information on students shall be paid by the guaranty agency requesting the information.

(c) Guaranty Agreements for Reimbursing Losses.—

(1) Authority to enter into agreements.—(A) The Secretary may enter into a guaranty agreement with any guaranty agency, whereby the Secretary shall undertake to reimburse it,

under such terms and conditions as the Secretary may establish, with respect to losses (resulting from the default of the student borrower) on the unpaid balance of the principal and accrued interest of any insured loan, including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C). The guaranty agency shall be deemed to have a contractual right against the United States, during the life of such loan, to receive reimbursement according to the provisions of this subsection. Upon receipt of an accurate and complete request by a guaranty agency for reimbursement with respect to such losses, the Secretary shall pay promptly and without administrative delay. Except as provided in subparagraph (B) of this paragraph and in paragraph (7), the amount to be paid a guaranty agency as reimbursement under this subsection shall be equal to 100 percent of the amount expended by it in discharge of its insurance obligation incurred under its loan insurance program. In no case shall a guaranty agency file a claim under this subsection for reimbursement with respect to losses prior to 270 days after the loan becomes delinquent with respect to any installment thereon.

(B) Notwithstanding subparagraph (A)—

(i) if, for any fiscal year, the amount of such reimbursement payments by the Secretary under this subsection exceeds 5 percent of the loans which are insured by such guaranty agency under such program and which were in repayment at the end of the preceding fiscal year, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 90 percent of the amount of such excess; and

(ii) if, for any fiscal year, the amount of such reimbursement payments exceeds 9 percent of such loans, the amount to be paid as reimbursement under this subsection for such excess shall be equal to 80 percent of the amount of such excess.

(C) For the purpose of this subsection, the amount of loans of a guaranty agency which are in repayment shall be the original principal amount of loans made by a lender which are insured by such a guaranty agency reduced by—

(i) the amount the insurer has been required to pay to discharge its insurance obligations under this part;

(ii) the original principal amount of loans insured by it which have been fully repaid; and

(iii) the original principal amount insured on those loans for which payment of the first installment of principal has not become due pursuant to subsection (b)(1)(E) of this section or such first installment need not be paid pursuant to subsection (b)(1)(M) of this section.

(2) CONTENTS OF GUARANTY AGREEMENTS.—The guaranty agreement—

(A) shall set forth such administrative and fiscal procedures as may be necessary to protect the United States from the risk of unreasonable loss thereunder, to ensure proper and efficient administration of the loan insurance program, and to assure that due diligence will be exercised in the collection of loans insured under the program, including a requirement that each beneficiary of insurance on the loan submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known);

(B) shall provide for making such reports, in such form and containing such information, as the Secretary may reasonably require to carry out the Secretary's functions under this subsection, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(C) shall set forth adequate assurances that, with respect to so much of any loan insured under the loan insurance program as may be guaranteed by the Secretary pursuant to this subsection, the undertaking of the Secretary under the guaranty agreement is acceptable in full satisfaction of State law or regulation requiring the maintenance of a reserve;

(D) shall provide that if, after the Secretary has made payment under the guaranty agreement pursuant to paragraph (1) of this subsection with respect to any loan, any payments are made in discharge of the obligation incurred by the borrower with respect to such loan (including any payments of interest accruing on such loan after such payment by the Secretary), there shall be paid over to the Secretary (for deposit in the fund established by section 431) such proportion of the amounts of such payments as is determined (in accordance with paragraph (6)) to represent his equitable share thereof, but (i) shall provide for subrogation of the United States to the rights of any insurance beneficiary only to the extent required for the purpose of paragraph (8); and (ii) except as the Secretary may otherwise by or pursuant to regulation provide, amounts so paid by a borrower on such a loan shall be first applied in reduction of principal owing on such loan;

(E) shall set forth adequate assurance that an amount equal to each payment made under paragraph (1) will be promptly deposited in or credited to the accounts maintained for the purpose of section 422(c);

(F) set forth adequate assurances that the guaranty agency will not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the guaranty agency, length of the borrower's educational program, or the borrower's academic year in school; and

(G) may include such other provisions as may be necessary to promote the purpose of this part.

(3) FORBEARANCE.—To the extent provided in regulations of the Secretary, a guaranty agreement under this subsection may contain provisions which permit such forbearance for the

benefit of the student borrower as may be agreed upon by the parties to an insured loan and approved by the insurer. Such regulations shall not preclude guaranty agencies from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default.

(4) DEFINITIONS.—For the purpose of this subsection, the terms "insurance beneficiary" and "default" have the meanings assigned to them by section 435.

(5) APPLICABILITY TO EXISTING LOANS.—In the case of any guaranty agreement with a guaranty agency, the Secretary may, in accordance with the terms of this subsection, undertake to guarantee loans described in paragraph (1) which are insured by such guaranty agency and are outstanding on the date of execution of the guaranty agreement, but only with respect to defaults occurring after the execution of such guaranty agreement or, if later, after its effective date.

(6) SECRETARY'S EQUITABLE SHARE.—(A) For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

(i) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(ii) an amount equal to 30 percent of such payments (subject to subparagraph (D) of this paragraph) for costs related to the student loan insurance program, including the administrative costs of collection of loans reimbursed under this subsection, the administrative costs of preclaims assistance for default prevention, the administrative costs of supplemental preclaims assistance for default prevention, and the administrative costs of monitoring the enrollment and repayment status of students (as such terms are defined in subparagraph (B) or (C) of this paragraph).

(B) For the purpose of this paragraph and subsection (f) of this section, the term—

(i) "administrative costs of collection of loans" means any administrative costs incurred by a guaranty agency which are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable;

(ii) "administrative costs of preclaim assistance for default prevention" means any administrative costs incurred by a guaranty agency which are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being legally in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the collection activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone and similar charges, but does not include the overhead costs of such agency whether or not attributable; and

(iii) "administrative costs of monitoring the enrollment and repayment status of students" means any administrative costs by a guaranty agency which are directly related to ascertaining the student's enrollment status, prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this part,

subject to such additional criteria as the Secretary may by regulation prescribe.

(C)(i) For the purpose of this paragraph, "administrative costs of supplemental preclaims assistance" means (subject to divisions (ii) through (iv)) any administrative costs—

(I) incurred by a guaranty agency in connection with a loan on which the guarantor has exercised preclaims assistance required or permitted under paragraph (2)(A) of this subsection and subsection (f), and which has been in delinquent status for at least 120 days; and

(II) which are directly related to providing collection assistance to the lender on a delinquent loan, prior to a claim being filed with the guaranty agency,

including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions, only the portion of compensation attributable to the collection assistance), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges, but does not include overhead costs.

(ii) The administrative costs for which reimbursement is authorized under this subparagraph must be clearly supplemental to the preclaim assistance for default prevention which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f).

(iii) The services associated with carrying out this subparagraph may be provided by the guaranty agency directly or under contract, except that such services may not be carried out by an organization or entity (other than the guaranty agency)—

(I) that is the holder or servicer of the loan or an organization or entity that owns or controls the holder or servicer of the loan;

(II) that is owned or controlled by the same corporation, partnership, association, or individual that owns or controls the holder or servicer of the loan; or

(III) that is an organization or entity that has a contract with a guaranty agency to perform collection activities with respect to the same loans in the event of default.

(iv) The costs for each delinquent loan associated with carrying out this subparagraph may not exceed 2 percent of the outstanding principal balance of each such loan subject to the supplemental preclaims assistance authorized by this subparagraph or $100, whichever is less. In the case of accounts brought into repayment status as a result of performing supplemental preclaims assistance, the cost of such assistance is a permissible charge to the borrower (for the cost of collection) for which the borrower shall be liable.

(D) In the case of a State which enacts and enforces a garnishment law that complies with the requirements of section 428E, subparagraph (A)(ii) shall be applied by substituting "35 percent" for "30 percent".

(7) NEW PROGRAMS ELIGIBLE FOR 100 PERCENT REINSURANCE.—(A) Notwithstanding paragraph (1)(B), the amount to be paid a guaranty agency for any fiscal year—

(i) which begins on or after October 1, 1977; and

(ii) which is either the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) of this section, or is one of the 4 succeeding fiscal years,

shall be 100 percent of the amount expended by such guaranty agency in discharge of its insurance obligation insured under such program.

(B) The Secretary shall continuously monitor the operations of those guaranty agencies to which the provisions of subparagraph (A) are applicable and revoke the application of such subparagraph to any such guaranty agency which the Secretary determines has not exercised reasonable prudence in the administration of such program.

(8) ASSIGNMENT TO PROTECT FEDERAL FISCAL INTEREST.—If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder and for which the Secretary has made a payment pursuant to paragraph (1) of this subsection.

(9) REINSURANCE FEES.—(A) Any guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall pay to the Secretary during each fiscal year a reinsurance fee in an amount equal to—

(i) 0.25 percent of the total principal amount of the covered loans upon which insurance was issued by such agency during such fiscal year, in any fiscal year other than a fiscal year described in clause (ii); or

(ii) 0.5 percent of the total principal amount of the covered loans upon which insurance was issued by such agency during such fiscal year, in any fiscal year with respect to which the Secretary reimbursed the agency for any losses (resulting from the default of the borrower) pursuant to paragraph (1)(B) of this subsection.

(B) The amount to be paid pursuant to subparagraph (A) may be paid from any funds available to the guaranty agency.

(C) When the Secretary first reimburses a guaranty agency pursuant to paragraph (1)(B) of this subsection, the Secretary shall notify such agency of the exact date of such reimbursement.

(D) For purposes of subparagraph (A), the term "covered loans" means loans made under this part to which the insurance applies, but does not include loans made under section 428A(d), 428B(d), or 428C.

(d) Usury Laws Inapplicable.—No provision of any law of the United States (other than this Act) or of any State (other than a statute applicable principally to such State's student loan insurance program) which limits the rate or amount of interest payable on loans shall apply to a loan—

(1) which bears interest (exclusive of any premium for insurance) on the unpaid principal balance at a rate not in excess of the rate specified in this part; and

(2) which is insured (i) by the United States under this part, or (ii) by a guaranty agency under a program covered by an agreement made pursuant to subsection (b) of this section.

(e) Payments for lender referral services.—

(1) In general.—The Secretary shall make payments in accordance with this paragraph to a guaranty agency in any State which provides a lender referral service for students who meet the requirements of paragraph (2).

(2) Student eligibility.—A student is eligible to apply for lender referral services to a guaranty agency in a State if—

(A) such student is either a resident of such State or is accepted for enrollment in or is attending an eligible institution in such State; and

(B) such student has sought and was unable to find a lender willing to make a loan under this part.

(3) Amount of payment.—The amount which the Secretary shall pay to any eligible guaranty agency under this paragraph shall be equal to one-half of 1 percent of the total principal amount of the loans (upon which insurance was issued under this part) to a student described in paragraph (2) who subsequently obtained such loans because of such agency's referral service.

(4) Incentive fees to lenders.—Nothing in this or any law shall prohibit an agency from using all or any portion of the funds received under this part for the payment of incentive fees to lenders who agree to participate in a lender referral service.

(5) Authorization of appropriations.—There is authorized to be appropriated such sums as are necessary to carry out the provisions of this paragraph.

(f) Payments of Certain Costs.—

(1) Payments based on insurance program agreement.—(A) The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency for the purposes of—

(i) the administrative cost of promotion of commercial lender participation;

(ii) the administrative costs of collection of loans;

(iii) the administrative costs of preclaims assistance for default prevention;

(iv) the administrative costs of monitoring the enrollment and repayment status of students; or

(v) other such costs related to the student loan insurance program subject to such agreement.

(B) The total amount of payments for any fiscal year made under this paragraph shall be equal to 1 percent of the total principal amount of the loans upon which insurance was issued under this part during such fiscal year by such guaranty agency. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefor under this subparagraph.

(2) APPLICATIONS FOR PAYMENTS.—No payment may be made under paragraph (1) of this subsection unless the guaranty agency submits to the Secretary an application at such time, at least annually, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(A) set forth assurances that the student loan insurance program subject to the guaranty agreement complies with subparagraphs (A), (B), (G), (R), (S), (T), and (U) of subsection (b)(1);

(B) contain provisions designed to demonstrate the capability of carrying out a necessary and successful program of collection of and preclaim assistance for the loan program subject to that agreement;

(C) set forth an estimate of the costs which are eligible for payment under the provisions of this subsection;

(D) provide for such administrative and fiscal procedures, including an audit, as are necessary to carry out the provisions of this subsection; and

(E) set forth assurances that the guaranty agency will furnish such data and information, including where necessary estimates, as the Secretary may reasonably require, to carry out the provisions of this subsection.

(g) ACTION ON INSURANCE PROGRAM AND GUARANTY AGREEMENTS.—If a nonprofit private institution or organization—

(1) applies to enter into an agreement with the Secretary under subsections (b) and (c) with respect to a student loan insurance program to be carried on in a State with which the Secretary does not have an agreement under subsection (b), and

(2) as provided in the application, undertakes to meet the requirements of section 422(c)(6)(B) (i), (ii), and (iii),

the Secretary shall consider and act upon such application within 180 days, and shall forthwith notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of his actions.

(h) LENDING BY GUARANTY AGENCIES.—

(1) LENDING FROM SALLIE MAE ADVANCES.—From sums advanced by the Association pursuant to section 439(p), each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) of the Act is authorized to make loans directly to students otherwise unable to obtain loans under this part.

(2) AMOUNT OF ADVANCES.—(A) Each guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) which has an application approved under section 439(p)(2) may receive advances under section 439(p) for each fiscal year in an amount necessary to meet the demand for loans under this section. The amount such agency or lender is eligible to receive may not exceed 25 percent of the average of the loans guaranteed by that agency or lender for the 3 years preceding the fiscal year for which the determination is made. Whenever the determination required by the preceding sentence cannot be made because the agency or lender does not have 3 years previous experience, the amount such agency or lender is eligible to receive may not exceed 25 percent of the loans guaranteed under a program of a State of comparable size.

(B) Each guaranty agency and each eligible lender in a State described in section 435(d)(1) (D) or (F) shall repay advances made under section 439(p) in accordance with agreements entered into between the Association and such agency or lender.

(3) LOAN TERM, CONDITIONS, AND BENEFITS.—Loans made pursuant to this subsection shall have the same terms, conditions, and benefits as all other loans made under this part.

(i) MULTIPLE DISBURSEMENT OF LOANS.—

(1) ESCROW ACCOUNTS ADMINISTERED BY ESCROW AGENT.—Any guaranty agency or eligible lender (hereafter in this subsection referred to as the "escrow agent") may enter into an agreement with any other eligible lender that is not an eligible institution or an agency or instrumentality of the State (hereafter in this subsection referred to as the "lender") for the purpose of authorizing disbursements of the proceeds of a loan to a student. Such agreement shall provide that the lender will pay the proceeds of such loans into an escrow account to be administered by the escrow agent in accordance with the provisions of paragraph (2) of this subsection. Such agreement may allow the lender to make payments into the escrow account in amounts that do not exceed the sum of the amounts required for disbursement of initial or subsequent installments to borrowers and to make such payments not more than 21 days prior to the date of the disbursement of such installment to such borrowers. Such agreement shall require the lender to notify promptly the eligible institution when funds are escrowed under this subsection for a student at such institution.

(2) AUTHORITY OF ESCROW AGENT.—Each escrow agent entering into an agreement under paragraph (1) of this subsection is authorized to—

(A) make the disbursements in accordance with the note evidencing the loan;

(B) commingle the proceeds of all loans paid to the escrow agent pursuant to the escrow agreement entered into under such paragraph (1);

(C) invest the proceeds of such loans in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(D) retain interest or other earnings on such investment; and

(E) return to the lender undisbursed funds when the student ceases to carry at an eligible institution at least one-half of the normal full-time academic workload as determined by the institution.

(j) Lenders-of-Last-Resort.—In each State, the guaranty agency or an eligible lender in the State described in section 435(d)(1)(D) of this Act shall make loans directly, or through an agreement with an eligible lender or lenders, to students eligible to receive interest benefits paid on their behalf under subsection (a) of this section who are otherwise unable to obtain loans under this part. Loans made under this subsection shall not exceed the amount of the need of the borrower, as determined under subsection (a)(2)(B), nor be less than $200. The guaranty agency shall consider the request of any eligible lender, as defined under section 435(d)(1)(A) of this Act, to serve as the lender-of-last-resort pursuant to this subsection.

(k) Information on Defaults.—

(1) Provision of information to eligible institutions.—In order to notify eligible institutions of former students who are in default of their continuing obligation to repay student loans, each guaranty agency may, upon the request of an eligible institution, furnish information with respect to students who were enrolled at the eligible institution and who are in default on the repayment of any loan made, insured, or guaranteed under this part. The information authorized to be furnished under this subsection may include the names and addresses of such students.

(2) Public dissemination not authorized.—Nothing in paragraph (1) of this subsection shall be construed to authorize public dissemination of the information described in paragraph (1).

(20 U.S.C. 1078) Enacted Nov. 8, 1965, P.L. 89–329, sec. 428, 79 Stat. 1240; amended Aug. 3, 1968, P.L. 90–460, secs. 1, 2, 3, 82 Stat. 634–638; amended Oct. 16, 1968, P.L. 90–575, secs. 111, 112, 113, 115, 116, 117, 1220, 82 Stat. 1020–27; amended June 23, 1972, P.L. 92–318, sec. 132(b), 86 Stat. 261; further amended June 23, 1972, P.L. 92-318, sec. 132C (a) and (b), 86 Stat. 262, 263; sec. 428(e) repealed June 23, 1972, P.L. 92–318, sec. 132D(c), 86 Stat. 264; amended April 18, 1974, P.L. 93–269, 88 Stat. 87, 89; amended June 30, 1976, P.L. 94–328, sec. 2(b), 90 Stat. 727; amended Oct. 12, 1976, P.L. 94–482, sec. 127(a), 90 Stat. 2108–2120; amended June 15, 1977, P.L. 95–43, sec. 1(a) (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), 91 Stat. 214, 215, 216; amended November 1, 1978, P.L. 95–566, sec. 5 (a)(2), (b)(1), (b)(3)–(5), 92 Stat. 2403; amended October 3, 1980, P.L. 96–374, secs. 411(b), 412 (c), (d), (f), 413(b), (d), 414, 415(a) (3), (4), (5), (b)(2), 417, 423 (b), (c), (d), 1391, 94 Stat. 1416, 1417, 1418, 1419, 1420, 1422, 1432, 1503; amended August 13, 1981, P.L. 97–35, secs. 532(a), (b)(1), 535(c), (d), 536(b), 537(b)(2), (c), (d)(1), (e)(2), 95 Stat. 451, 452, 455, 456, 457; amended August 15, 1983, P.L. 98–79, sec. 10(b), 97 Stat 484; amended April 7, 1986, P.L. 99–272, secs. 16012(b), 16013(a), (c), (e)(2), (3), 16014(a)(1), (b), 16015(b), 16016, 16018(a)(2), 16021, 16032(c), 100 Stat. 339–343, 348, 349, 355; amended May 23, 1986, P.L. 99–320, sec. 2(a)(2), (b), 100 Stat. 491; amended October 17, 1986, P.L. 99–498, sec. 402, 100 Stat. 1367; amended June 3, 1987, P.L. 100–50, sec. 10(a)–(c), (e)–(m), 101 Stat. 341, 342.

SUPPLEMENTAL LOANS FOR STUDENTS

Sec. 428A. (a) Authority To Borrow.—Graduate and professional students (as defined by regulations of the Secretary) and undergraduate independent students shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), loans under this section shall have the same terms, conditions, and benefits as all other loans made under this part. In addition, undergraduate dependent students shall be eligible to borrow funds under this section if the financial aid administrator determines, after review of the financial information submitted by the student and considering the debt burden of the student, that extenuating circumstances will likely preclude the student's parents from borrowing under section 428B for purposes of the expected family contribution and that the student's family is otherwise unable to provide such expected family contribution.

(b) Limitations on Amounts of Loans.—

(1) Annual limit.—Subject to paragraphs (2) and (3), the maximum amount a student may borrow in any academic year or its equivalent (as defined by regulation by the Secretary) is $4,000.

(2) Aggregate limit.—The aggregate insured principal amount for insured loans made to any student under this section, exclusive of interest capitalized under subsection (c), shall not exceed $20,000.

(3) Limitation based on need.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any student under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of the student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(c) Payment of Principal and Interest.—

(1) Commencement of repayment.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral pursuant to sections 427(a)(2)(C) and 428(b)(1)(M).

(2) Capitalization of interest.—Interest on loans made under this section for which payments of principal are deferred under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i) shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

(3) Subsidies prohibited.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(c).

(5) AMORTIZATION.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually, or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

(d) REFINANCING.—

(1) REFINANCING TO SECURE COMBINED PAYMENT.—An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

(2) REFINANCING TO SECURE VARIABLE INTEREST RATE.—An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to recover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

(3) Refinancing by discharge of previous loan.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B));

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

(4) Certification in lieu of promissory note presentation.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

(5) Notification to borrowers of availability of refinancing options.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than October 1, 1987, in the case of loans made before the date of enactment of this Act, notify the borrower of such loan—

(A) of the refinancing options for which the borrower is eligible under this subsection;

(B) of those options which will be made available by the holder and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples; and

(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

(20 U.S.C. 1078-1) Enacted October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2120, 2121, 2122, 2123; amended June 15, 1977, P.L. 95-43, sec. 1(a)(30), (31), (32), 91 Stat. 216; amended October 3, 1980; P.L. 96-374, secs. 412(e), (f), 1391, 94 Stat. 1420, 1421, 1503; amended August 13, 1981, P.L. 97-35, sec. 535(e), 95 Stat. 455; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1384; amended June 3, 1987, P.L. 100-50, sec. 10(n), (o)(1), (p)(1), (q), (r), 101 Stat. 343, 344.

PLUS LOANS

Sec. 428B. (a) Authority To Borrow.—Parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b), and unless otherwise specified in subsections (c) and (d), such loans shall have the same terms, conditions, and benefits as all other loans made under this part. Whenever necessary to carry out the provisions of this section, the terms "student" and "borrower" as used in this part shall include a parent borrower under this section.

(b) Limitations on Amounts of Loans.—

(1) Annual limit.—Subject to paragraphs (2) and (3), the maximum amount parents may borrow for one student in any academic year or its equivalent (as defined by regulation of the Secretary) is $4,000.

(2) Aggregate limit.—The aggregate insured principal amount for insured loans made to parents on account of a student shall not exceed $20,000.

(3) Limitation based on need.—Any loan under this section may be counted as part of the expected family contribution in the determination of need under this title, but no loan may be made to any parent under this section for any academic year in excess of (A) the student's estimated cost of attendance, minus (B) other financial aid as certified by the eligible institution under section 428(a)(2)(A). The annual insurable limit on account of any student shall not be deemed to be exceeded by a line of credit under which actual payments to the borrower will not be made in any year in excess of the annual limit.

(c) Payment of Principal and Interest.—

(1) Commencement of repayment.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral (A) during any period during which the parent meets the conditions required for a deferral under clause (i), (viii), or (ix) of section 427(a)(2)(C) or 428(b)(1)(M); and (B) during any period during which the borrower has a dependent student for whom a loan obligation was incurred under this section and who meets the conditions required for a deferral under clause (i) of either such section.

(2) Capitalization of interest.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

(3) Subsidies prohibited.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

(4) Applicable rates of interest.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(c).

(5) Amortization.—The amount of the periodic payment and the repayment schedule for any loan made pursuant to this section shall be established by assuming an interest rate equal to the applicable rate of interest at the time the repayment of the principal amount of the loan commences. At the option of the lender, the note or other written evidence of the loan may require that—

(A) the amount of the periodic payment will be adjusted annually, or

(B) the period of repayment of principal will be lengthened or shortened,

in order to reflect adjustments in interest rates occurring as a consequence of section 427A(c)(4).

(d) Refinancing.—

(1) Refinancing to secure combined payment.—An eligible lender may at any time consolidate loans held by it which are made under this section to a borrower, including loans which were made under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986, under a single repayment schedule which provides for a single principal payment and a single payment of interest, and shall calculate the repayment period for each included loan from the date of the commencement of repayment of the most recent included loan. Unless the consolidated loan is obtained by a borrower who is electing to obtain variable interest under paragraph (2) or (3), such consolidated loan shall bear interest at the weighted average of the rates of all included loans. The extension of any repayment period of an included loan pursuant to this paragraph shall be reported (if required by them) to the Secretary or guaranty agency insuring the loan, as the case may be, but no additional insurance premiums shall be payable with respect to any such extension. The extension of the repayment period of any included loan shall not require the formal extension of the promissory note evidencing the included loan or the execution of a new promissory note, but shall be treated as an administrative forbearance of the repayment terms of the included loan.

(2) Refinancing to secure variable interest rate.—An eligible lender may reissue a loan which was made under this section before July 1, 1987, or under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986 in order to permit the borrower to obtain the interest rate provided under section 427A(c)(4). A lender offering to reissue a loan or loans for such purpose may charge a borrower an amount not to exceed $100 to cover the administrative costs of reissuing such loan or loans, not more than one-half of which shall be paid to the guarantor of the loan being reissued to cover costs of reissuance. Reissuance of a loan under this paragraph shall not affect any insurance applicable with respect to the loan, and no additional insurance fee may be charged to the borrower with respect to the loan.

(3) Refinancing by discharge of previous loan.—A borrower who has applied to an original lender for reissuance of a loan under paragraph (2) and who is denied such reissuance may obtain a loan from another lender for the purpose of discharging the loan from such original lender. A loan made for such purpose—

(A) shall bear interest at the applicable rate of interest provided under section 427A(c)(4);

(B) shall not result in the extension of the duration of the note (other than as permitted under subsection (c)(5)(B));

(C) may be subject to an additional insurance fee but shall not be subject to the administrative cost charge permitted by paragraph (2) of this subsection; and

(D) shall be applied to discharge the borrower from any remaining obligation to the original lender with respect to the original loan.

(4) Certification in lieu of promissory note presentation.—Each new lender may accept certification from the original lender of the borrower's original loan in lieu of presentation of the original promissory note.

(5) Notification to borrowers of availability of refinancing options.—Each holder of a loan made under this section or under section 428B as in effect prior to the date of enactment of this Act shall, not later than October 1, 1987, in the case of loans made before the date of enactment of this Act, notify the borrower of such loan—

(A) of the refinancing options for which the borrower is eligible under this subsection;

(B) of those options which will be made available by the holder and of the practical consequences of such options in terms of interest rates and monthly and total payments for a set of loan examples; and

(C) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

(20 U.S.C. 1078-2) Enacted October 3, 1980, P.L. 96-374, sec. 419, 94 Stat. 1424; amended August 13, 1981, P.L. 97-35, secs. 532(b)(3), 534(a)(2), (c)(1), (c)(3), 95 Stat. 452, 454, 455; amended August 15, 1983, P.L. 98-79, sec. 12, 97 Stat. 484; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1386; amended June 3, 1987, P.L. 100-50, sec. 10(o), (p)(2), (q), (r), 101 Stat. 343, 344.

CONSOLIDATION LOANS

Sec. 428C. (a) Agreements With Eligible Lenders.—

(1) Agreement required for insurance coverage.—For the purpose of providing loans to eligible borrowers for consolidation of their obligations with respect to eligible student loans, the Secretary or a guaranty agency shall enter into agreements in accordance with subsection (b) with the following eligible lenders:

(A) the Student Loan Marketing Association;

(B) State agencies described in subparagraphs (D) and (F) of section 435(d)(1); and

(C) other eligible lenders described in subparagraphs (A), (B), (C), (E), and (J) of such section.

(2) Insurance coverage of consolidation loans.—Except as provided in section 429(e), no contract of insurance under this part shall apply to a consolidation loan unless such loan is made under an agreement pursuant to this section and is covered by a certificate issued in accordance with subsection (b)(2). Loans covered by such a certificate that is issued by a guaranty agency shall be considered to be insured loans for the purposes of reimbursements under section 428(c), but no payment shall be made with respect to such loans under section 428(f) to any such agency.

(3) Definition of eligible borrower.—(A) For the purpose of this section, the term "eligible borrower" means a borrower who, at the time of application for a consolidation loan—

(i) has an outstanding indebtedness on eligible student loans, at the time of application for a consolidation loan, of not less than $5,000; and

(ii) is in repayment status, or in a grace period preceding repayment, and is not delinquent with respect to any required payment on such indebtedness by more than 90 days.

(B) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except with respect to eligible student loans received after the date of receipt of the consolidation loan. Loans made under this section shall, to the extent used to discharge loans made under this title, be counted against the applicable limitations on aggregate indebtedness contained in sections 425(a)(2), 428(b)(1)(B), 428A(b)(2), and 464(a)(2). Nothing in this subparagraph shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidation loans to receive, to maintain, or to make reports with respect to preexisting records relating to any eligible student loan (as defined under section 428C(a)(4)) discharged by a borrower in receiving a consolidation loan.

(4) DEFINITION OF ELIGIBLE STUDENT LOANS.—For the purpose of paragraph (1), the term "eligible student loans" means loans—

(A) made, insured, or guaranteed under this part except for loans made to parent borrowers under section 428B, including loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986;

(B) made under part E of this title; or

(C) made under subpart II of part C of title VII of the Public Health Service Act.

(b) CONTENTS OF AGREEMENTS, CERTIFICATES OF INSURANCE, AND LOAN NOTES.—

(1) AGREEMENTS WITH LENDERS.—Any lender described in subparagraph (A), (B), or (C) of subsection (a)(1) who wishes to make consolidation loans under this section shall enter into an agreement with the Secretary or a guaranty agency which provides—

(A) that, in the case of all lenders described in subsection (a)(1), the lender will make a consolidation loan to an eligible borrower (on request of that borrower) only if the borrower certifies that the borrower has no other application pending for a loan under this section and (i) the lender holds an outstanding loan of that borrower which is selected by the borrower for consolidation under this section, or (ii) the borrower certifies that the borrower has sought and has been unable to obtain a consolidation loan from the holders of the outstanding loans of that borrower (which are so selected for consolidation);

(B) that each consolidation loan made by the lender will bear interest, and be subject to repayment, in accordance with subsection (c);

(C) that each consolidation loan will be made, notwithstanding any other provision of this part limiting the annual or aggregate principal amount for all insured loans made to a borrower, in an amount (i) which is not less than the minimum amount required for eligibility of the borrower under subsection (a)(3), and (ii) which is equal to the sum of the unpaid principal and accrued unpaid interest and late charges of all eligible student loans received by the eligible borrower which are selected by the borrower for consolidation;

(D) that the proceeds of each consolidation loan will be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans;

(E) such other terms and conditions as the Secretary or the guaranty agency may specifically require of the lender to carry out this section.

(2) ISSUANCE OF CERTIFICATE OF COMPREHENSIVE INSURANCE COVERAGE.—The Secretary shall issue a certificate of comprehensive insurance coverage under section 429(b) to a lender which has entered into an agreement with the Secretary under paragraph (1) of this subsection. The guaranty agency may issue a certificate of comprehensive insurance coverage to a lender with which it has an agreement under such paragraph. The Secretary shall not issue a certificate to a lender described in subparagraph (B) or (C) of subsection (a)(1) unless the Secretary determines that such lender has first applied to, and has been denied a certificate of insurance by, the guaranty agency which insures the preponderance of its loans (by value).

(3) CONTENTS OF CERTIFICATE.—A certificate issued under paragraph (2) shall, at a minimum, provide—

(A) that all consolidation loans made by such lender in conformity with the requirements of this section will be insured by the Secretary or the guaranty agency (whichever is applicable) against loss of principal and interest;

(B) that a consolidation loan will not be insured unless the lender has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being consolidated—

(i) that the loan is a legal, valid, and binding obligation of the borrower;

(ii) that each such loan was made and serviced in compliance with applicable laws and regulations; and

(iii) in the case of loans under this part, that the insurance on such loan is in full force and effect;

(C) the effective date and expiration date of the certificate;

(D) the aggregate amount to which the certificate applies;

(E) the reporting requirements of the Secretary on the lender and an identification of the office of the Department of Education or of the guaranty agency which will process claims and perform other related administrative functions;

(F) the alternative repayment terms which will be offered to borrowers by the lender;

(G) that, if the lender prior to the expiration of the certificate no longer proposes to make consolidation loans, the lender will so notify the issuer of the certificate in order that the certificate may be terminated (without affecting the insurance on any consolidation loan made prior to such termination); and

(H) the terms upon which the issuer of the certificate may limit, suspend, or terminate the lender's authority to make consolidation loans under the certificate (without affecting the insurance on any consolidation loan made prior to such limitation, suspension, or termination).

(4) TERMS AND CONDITIONS OF LOANS.—A consolidation loan made pursuant to this section shall be insurable by the Secretary or a guaranty agency pursuant to paragraph (2) only if the loan is made to an eligible borrower who has agreed to notify the holder of the loan promptly concerning any change of address and the loan is evidenced by a note or other written agreement which—

(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him or her would not, under applicable law, create a binding obligation, endorsement may be required;

(B) provides for the payment of interest and the repayment of principal in accordance with subsection (c) of this section;

(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period for which the borrower would be eligible for a deferral under clause (i), (viii), or (ix) of section 428(b)(1)(M), and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;

(D) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan; and

(E)(i) contains a notice of the system of disclosure concerning such loan to credit bureau organizations under section 430A, and (ii) provides that the lender on request of the borrower will provide information on the repayment status of the note to such organizations.

(c) PAYMENT OF PRINCIPAL AND INTEREST.—

(1) INTEREST RATES.—(A) Consolidation loans made under this section shall bear interest at rates determined under subparagraph (B) or (C). For the purposes of payment of special allowances under section 438(b)(2), the interest rate required by this subsection is the applicable interest rate with respect to a consolidation loan.

(B) Except as provided in subparagraph (C), a consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan which is equal to the weighted average of the interest rates on the loans consolidated, rounded to the nearest whole percent.

(C) A consolidation loan shall bear interest at an annual rate on the unpaid principal balance of the loan equal to not less than 9 percent.

(2) REPAYMENT SCHEDULES.—(A) Notwithstanding any other provision of this part, to the extent authorized by its certificate

of insurance under subsection (b)(2)(F) and approved by the issuer of such certificate, the lender of a consolidation loan shall establish repayment terms as will promote the objectives of this section, which may include the establishment of graduated or income sensitive repayment schedules. Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

(i) is equal to or greater than $5,000 but less than $7,500, then such consolidation loan shall be repaid in not more than 10 years;

(ii) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

(iii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

(iv) is equal to or greater than $20,000 but less than $45,000, then such consolidation loan shall be repaid in not more than 20 years; or

(v) is equal to or greater than $45,000, then such consolidation loan shall be repaid in not more than 25 years.

(B) Unless a consolidation loan under subparagraph (A)(ii) will be used to discharge at least $5,000 of loans made under this part, such loan shall be repaid in accordance with subparagraph (A)(i).

(C) The amount outstanding on other student loans which may be counted for the purpose of subparagraph (A) may not exceed the amount of the consolidation loan.

(3) Additional repayment requirements.—Notwithstanding paragraph (2)—

(A) a repayment schedule established with respect to a consolidation loan shall require that the minimum installment payment equal to[1] not less than the accrued unpaid interest; and

(B) the lender of a consolidation loan may, with respect to repayment on the loan, when the amount of a monthly or other similar payment on the loan is not a multiple of $5, round the payment to the next highest whole dollar amount that is a multiple of $5.

(4) Commencement of repayment.—Repayment of a consolidation loan shall commence within 60 days after all holders have, pursuant to subsection (b)(1)(D), discharged the liability of the borrower on the loans selected for consolidation.

(5) Insurance premiums prohibited.—No insurance premium shall be charged to the borrower on any consolidation loan, and no insurance premium shall be payable by the lender to the Secretary with respect to any such loan, but a fee may be payable by the lender to the guaranty agency to cover the costs of increased or extended liability with respect to such loan.

(d) Termination of Authority.—The authority to make loans under this section expires at the close of September 30, 1992. Nothing in this section shall be construed to authorize the Secretary to promulgate rules or regulations governing the terms or conditions of the agreements and certificates under subsection (b). Loans made under this section which are insured by the Secretary shall be considered to be new loans made to students for the purpose of section 424(a).

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[1] So in original.

(20 U.S.C. 1078-3) Enacted April 7, 1986, P.L. 99-272, sec. 16017(a), 100 Stat. 343; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1388; amended June 3, 1987, P.L. 100-50, sec. 10(s), 101 Stat. 345.

COMMINGLING OF FUNDS

Sec. 428D. Notwithstanding any other provision of this part regarding permissible uses of funds from any source, funds received by a guaranty agency under any provision of this part may be commingled with funds received under any other provision of this part and may be used to carry out the purposes of such other provision, except that—

(1) the total amount expended for the purposes of such other provision shall not exceed the amount the guaranty agency would otherwise be authorized to expend; and

(2) the authority to commingle such funds shall not relieve such agency of any accounting or auditing obligations under this part.

(20 U.S.C. 1078-4) Enacted October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1393.

STATE GARNISHMENT LAW REQUIREMENTS

Sec. 428E. (a) Requirements for Additional Cost Payments.—A garnishment law complies with the requirements of this section if such law—

(1) provides that the amount deducted for any pay period may not exceed 10 percent of disposable pay, except that a greater percentage may be deducted upon the written consent of the individual involved except that[1] any State which has a garnishment law in effect on the date of the enactment of the Higher Education Amendments of 1986 which provides for the deduction of an amount not to exceed 15 percent of disposable pay, shall be deemed to meet the requirements of this paragraph;

(2) provides the individual with a minimum of 30 days written notice, informing such individual of the nature and amount of the indebtedness determined by such agency to be due, the intention of the agency to initiate proceedings to collect the debt through deductions from pay, and an explanation of the rights of the individual under such law;

(3) provides the individual with an opportunity to inspect and copy records relating to the debts;

(4) provides the individual with an opportunity to enter into a written agreement with the agency, under terms agreeable to the head of the agency or his designee, to establish a schedule for the repayment of the debt;

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[1] So in original.

(5) provides the individual with an opportunity for a hearing in accordance with subsection (b) on the determination of the agency concerning the existence or the amount of the debt, and in the case of an individual whose repayment schedule is established other than by a written agreement pursuant to paragraph (4), concerning the terms of the repayment schedule, but does not permit additional administrative or judicial procedures that would delay collection of the debt (such as reduction of the debt to a judgment);

(6) provides that the employer will be held liable to the agency for any amount which such employer fails to withhold from wages due an employee following receipt by such employer of notice of the withholding order, but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph; and

(7) provides for the imposition of a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any individual subject to wage withholding required by this section because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer.

(b) Hearing Requirements.—A hearing described in subsection (a)(5) shall be provided if the individual, on or before the 15th day following receipt of the notice described in subsection (a)(2), and in accordance with such procedures as the head of the agency may prescribe, files a petition requesting such a hearing. The timely filing of a petition for hearing shall stay the commencement of collection proceedings. A hearing under subsection (a)(5) may not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an administrative law judge. The hearing official shall issue a final decision at the earliest practicable date, but not later than 60 days after the filing of the petition requesting the hearing.

(c) Notice Requirements.—The notice of the withholding order shall contain only such information as may be necessary for the employer to comply with the withholding order.

(d) Definition.—For the purpose of this section, the term "disposable pay" means that part of pay of any individual remaining after the deduction of any amounts required by law to be withheld.

(20 U.S.C. 1078-5) Enacted October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1393; amended June 3, 1987, P.L. 100-50, sec. 10(t), 101 Stat. 345.

REHABILITATION OF DEFAULTED LOANS

Sec. 428F. (a) Authority To Establish Pilot Program.—The Secretary shall, in accordance with the requirements of this section, establish a pilot program to test the feasibility of rehabilitating defaulted loans under this part. Such pilot program shall be commenced within 3 months after the date of enactment of this section and shall be completed not later than 3 years after such date. The Secretary shall submit a report on the results of such pilot program within 3 months after its completion.

(b) Method of Rehabilitation.—

(1) SALE OF LOAN PURSUANT TO AGREEMENT.—Upon securing consecutive payments for 12 months of amounts owed on a loan for which the Secretary has made a payment under section 428(c)(1), the guaranty agency (pursuant to an agreement with the Secretary) or the Secretary shall, if practicable, sell the rehabilitated loan to an eligible lender, other than an eligible lender who has been found by the guaranty agency or the Secretary to have substantially failed to exercise the due diligence required of lenders under this part.

(2) TERMS OF AGREEMENT.—Such agreement between the guaranty agency and the Secretary shall provide—

(A) for the repayment by the agency to the Secretary of 81.5 percent of the amount of the principal balance outstanding at the time of such sale multiplied by a percentage amount equal to the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

(B) for the reinstatement by the Secretary (I) of the obligation to reimburse such agency for the amount expended by it in discharge of its insurance obligation under its loan insurance program, and (II) of the obligation to pay to the holder of the rehabilitated loan a special allowance pursuant to section 438.

(3) PROCEEDS OF SALES OFFSET AGAINST DEFAULT CLAIMS.—Amounts received by the Secretary pursuant to the sale of rehabilitated loans by a guaranty agency under this paragraph shall be deducted from the calculations of the amount of claims for reimbursement filed by the agency under section 428(c)(1) for the fiscal year in which the amount was received, notwithstanding the fact that the default occurred in a prior fiscal year.

(4) EFFECT OF REHABILITATION ON BORROWER ELIGIBILITY.—Any borrower whose loan is rehabilitated under this subsection shall not be precluded by section 484 from receiving additional assistance under this title (for which he or she is otherwise eligible) on the basis of defaulting on the loan prior to rehabilitation.

(5) APPLICABILITY OF OTHER TERMS, CONDITIONS, AND BENEFITS.—A loan which is rehabilitated under this paragraph shall be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part.

(20 U.S.C. 1078-6) Enacted October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1394; amended June 3, 1987, P.L. 100-50, sec. 10(u), 101 Stat. 346.

CERTIFICATE OF FEDERAL LOAN INSURANCE—EFFECTIVE DATE OF INSURANCE

SEC. 429. (a) LOAN-BY-LOAN INSURANCE.—

(1) AUTHORITY TO ISSUE CERTIFICATES ON APPLICATION.—If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible student which is insurable under

the provisions of this part, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

(2) Effectiveness of certificate.—Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance was made. Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to subsection (c).

(3) Contents of applications.—An application submitted pursuant to subsection (a)(1) shall contain (A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to subsection (c), and (B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statement during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

(b) Comprehensive Insurance Coverage Certificate.—

(1) Establishment of system by regulation.—In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each student loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 424, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the United States from the risk of unreasonable loss and promoting the objectives of this part, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

(2) UNCOVERED LOANS.—If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a student a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 424, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance on comprehensive coverage under the subsection for the period or periods in which such future loans or payments are made.

(c) CHARGES FOR FEDERAL INSURANCE.—The Secretary shall, pursuant to regulations, charge for insurance on each loan under this part a premium in an amount not to exceed one-fourth of 1 percent per year of the unpaid principal amount of such loan (excluding interest added to principal), payable in advance, at such times and in such manner as may be prescribed by the Secretary. Such regulations may provide that such premium shall not be payable, or if paid shall be refundable, with respect to any period after default in the payment of principal or interest or after the borrower has died or becomes totally and permanently disabled, if (1) notice of such default or other event has been duly given, and (2) requests for payment of the loss insured against has been made or the Secretary has made such payment on his own motion pursuant to section 430(a).

(d) ASSIGNABILITY OF INSURANCE.—The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned as security by such lender only to another eligible lender, and subject to regulation by the Secretary.

(e) CONSOLIDATION NOT TO AFFECT INSURANCE.—The consolidation of the obligations of two or more federally insured loans obtained by a student borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation; if they are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

(20 U.S.C. 1079) Enacted Nov. 8, 1965, P.L. 89-329, sec. 429, 79 Stat. 1243; amended October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2123, 2124, 2125; amended October 3, 1980, P.L. 96-374, sec. 1351, 94 Stat. 1503; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1395.

DEFAULT OF STUDENT UNDER FEDERAL LOAN INSURANCE PROGRAM

SEC. 430. (a) NOTICE TO SECRETARY AND PAYMENT OF LOSS.—Upon default by the student borrower on any loan covered by Federal loan insurance pursuant to this part, and prior to the commencement of suit or other enforcement proceedings upon security for that loan, the insurance beneficiary shall promptly notify the Secretary, and the Secretary shall if requested (at that time or after further collection efforts) by the beneficiary, or may on the Secretary's own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. The "amount of the loss" on any loan shall, for the purposes of this subsection and subsection (b), be deemed to be an amount equal to the unpaid balance of the principal amount and accrued interest, including interest accruing from the date of submission of a valid default claim (as determined by the Secretary) to the date on which payment is authorized by the Secretary, reduced to the extent required by section 425(b). Such beneficiary shall be required to meet the standards of due diligence in the collection of the loan and shall be required to submit proof that reasonable attempts were made to locate the borrower (when the location of the borrower is unknown) and proof that contact was made with the borrower (when the location is known). The Secretary shall make the determination required to carry out the provisions of this section not later than 90 days after the notification by the insurance beneficiary and shall make payment in full on the amount of the beneficiary's loss pending completion of the due diligence investigation.

(b) Effect of Payment of Loss.—Upon payment of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs and collection costs, to the extent set forth in regulations issued by the Secretary) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may, in attempting to make recovery on such loans, contract with private business concerns, State student loan insurance agencies, or State guaranty agencies, for payment for services rendered by such concerns or agencies in assisting the Secretary in making such recovery. Any contract under this subsection entered into by the Secretary shall provide that attempts to make recovery on such loans shall be fair and reasonable, and do not involve harassment, intimidation, false or misleading representations, or unnecessary communications concerning the existence of any such loan to persons other than the student borrower.

(c) Forbearance Not Precluded.—Nothing in this section or in this part shall be construed to preclude any forbearance for the benefit of the student borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary, or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance. Any forbearance which is approved by the Secretary under this subsection with respect to the repayment of a loan, including a forbearance during default, shall not be considered as indicating that a holder of a federally insured loan has failed to exercise reasonable care and due diligence in the collection of the loan.

(d) Care and Diligence Required of Holders.—Nothing in this section or in this part shall be construed to excuse the holder of a federally insured loan from exercising reasonable care and diligence in the making and collection of loans under the provisions of this part. If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that it has substantially failed to exercise such care and diligence or to make the reports and statements required under section 428(a)(4) and section 429(a)(3), or to pay the required Federal loan insurance premiums, the Secretary shall disqualify that lender for further Federal insurance on loans granted pursuant to this part until the Secretary is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence or comply with such requirements, as the case may be.

(20 U.S.C. 1080) Enacted Nov. 8, 1965, P.L. 89-329, sec. 430, 79 Stat. 1244; amended Oct. 16, 1968, P.L. 90-575, sec. 113, 82 Stat. 1021; amended June 23, 1972, P.L. 92-318, sec. 132B(c), 86 Stat. 262; amended October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2125, 2126; amended June 15, 1977, P.L. 95-43, sec. 1(a)(33), 91 Stat. 216; amended October 3, 1980, P.L. 96-374, secs. 416(a)(1), (b), 422, 1391, 94 Stat. 1421, 1422, 1432, 1503; amended April 7, 1986, P.L. 99-272, secs. 16014(a)(2), 16022, 100 Stat. 341, 349; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1397.

REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION

SEC. 430A. (a) AGREEMENTS TO EXCHANGE INFORMATION.—For the purpose of promoting responsible repayment of loans covered by Federal loan insurance pursuant to this part or covered by a guaranty agreement pursuant to section 428, the Secretary, each guaranty agency, eligible lender, and subsequent holder shall enter into agreements with credit bureau organizations to exchange information concerning student borrowers, in accordance with the requirements of this section. For the purpose of assisting such organizations in complying with the Fair Credit Reporting Act, such agreements may provide for timely response by the Secretary (concerning loans covered by Federal loan insurance), by a guaranty agency, eligible lender, or subsequent holder (concerning loans covered by a guaranty agreement), or to requests from such organizations for responses to objections raised by borrowers. Subject to the requirements of subsection (c), such agreements shall require the Secretary, the guaranty agency, eligible lender, or subsequent holder, as appropriate, to disclose to such organizations, with respect to any loan under this part that has not been repaid by the borrower—

(1) the total amount of loans made to any borrower under this part and the remaining balance of the loans;

(2) information concerning the date of any default on the loan and the collection of the loan, including information concerning the repayment status of any defaulted loan on which the Secretary has made a payment pursuant to section 430(a) or the guaranty agency has made a payment to the previous holder of the loan; and

(3) the date of cancellation of the note upon completion of repayment by the borrower of the loan or payment by the Secretary pursuant to section 437.

(b) ADDITIONAL INFORMATION.—Such agreements may also provide for the disclosure by such organizations to the Secretary or a guaranty agency, whichever insures or guarantees a loan, upon receipt of a notice under subsection (a)(2) that such a loan is in default, of information concerning the borrower's location or other information which may assist the Secretary, the guaranty agency, the eligible lender, or the subsequent holder in collecting the loan.

(c) Contents of Agreements.—Agreements entered into pursuant to this section shall contain such provisions as may be necessary to ensure that—

(1) no information is disclosed by the Secretary or the guaranty agency, eligible lender, or subsequent holder unless its accuracy and completeness have been verified and the Secretary or the guaranty agency has determined that disclosure would accomplish the purpose of this section;

(2) as to any information so disclosed, such organizations will be promptly notified of, and will promptly record, any change submitted by the Secretary, the guaranty agency, eligible lender, or subsequent holder with respect to such information, or any objections by the borrower with respect to any such information, as required by section 611 of the Fair Credit Reporting Act (15 U.S.C. 1681i);

(3) no use will be made of any such information which would result in the use of collection practices with respect to such a borrower that are not fair and reasonable or that involve harassment, intimidation, false or misleading representations, or unnecessary communication concerning the existence of such loan or concerning any such information; and

(4) with regard to notices of default under subsection (a)(2) of this section, except for disclosures made to obtain the borrower's location, the Secretary, or the guaranty agency, eligible lender, or subsequent holder whichever is applicable (A) shall not disclose any such information until the borrower has been notified that such information will be disclosed to credit bureau organizations unless the borrower enters into repayment of his or her loan, but (B) shall, if the borrower has not entered into repayment within a reasonable period of time, but not less than 30 days, from the date such notice has been sent to the borrower, disclose the information required by this subsection.

(d) Contractor Status of Participants.—A guaranty agency, eligible lender, or subsequent holder or credit bureau organization which discloses or receives information under this section shall not be considered a Government contractor within the meaning of section 552a of title 5, United States Code.

(e) Disclosure to Institutions.—The Secretary and each guaranty agency, eligible lender, and subsequent holder of a loan are authorized to disclose information described in subsections (a) and (b) concerning student borrowers to the eligible institutions such borrowers attend or previously attended. To further the purpose of this section, an eligible institution may enter into an arrangement with any or all of the holders of delinquent loans made to borrowers who attend or previously attended such institution for the purpose of providing current information regarding the borrower's location or employment or for the purpose of assisting the holder in contacting and influencing borrowers to avoid default.

(f) Duration of Authority.—Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting

Act (15 U.S.C. 1681c (a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary or a guaranty agency, eligible lender, or subsequent holder regarding the status of a borrower's defaulted account on a loan guaranteed under this part until—

(1) 7 years from the date on which the Secretary or the agency paid a claim to the holder on the guaranty, or

(2) with regard to an account on a loan on which the Secretary or the guaranty agency has paid a claim but not reported the account to a consumer reporting agency on or before October 1, 1985, 7 years from that date.

(20 U.S.C. 1080a) Enacted April 7, 1986, P.L. 99-272, sec. 16023, 100 Stat. 349; amended May 23, 1986, P.L. 99-320, sec. (c), 100 Stat. 491; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1398; amended June 3, 1987, P.L. 100-50, sec. 10(v), 101 Stat. 346.

INSURANCE FUND

SEC. 431. (a) ESTABLISHMENT.—There is hereby established a student loan insurance fund (hereinafter in this section called the "fund") which shall be available without fiscal year limitation to the Secretary for making payments in connection with the default of loans insured by the Secretary under this part, or in connection with payments under a guaranty agreement under section 428(c). All amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with operations under this part, any excess advances under section 422, and any other moneys, property, or assets derived by the Secretary from operations in connection with this section, shall be deposited in the fund. All payments in connection with the default of loans insured by the Secretary under this part, or in connection with such guaranty agreements shall be paid from the fund. Moneys in the fund not needed for current operations under this section may be invested in bonds or other obligations guaranteed as to principal and interest by the United States.

(b) BORROWING AUTHORITY.—If at any time the moneys in the fund are insufficient to make payments in connection with the default of any loan insured by the Secretary under this part, or in connection with any guaranty agreement made under section 428(c), the Secretary is authorized, to the extent provided in advance by appropriations Acts, to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under the subsection shall be deposited in the fund and redemption of such notes and obligations shall be made by the Secretary from such fund.

(20 U.S.C. 1081) Enacted Nov. 8, 1965, P.L. 89-329, sec. 431, 79 Stat. 1245; amended Aug. 3, 1968, P.L. 90-460, sec. 3, 82 Stat. 638; amended October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2126, 2127; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1400; amended June 3, 1987, P.L. 100-50, sec. 10(w), 101 Stat. 346.

LEGAL POWERS AND RESPONSIBILITIES

SEC. 432. (a) GENERAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties, vested in him by this part, the Secretary may—

(1) prescribe such regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the Secretary's control and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 509, 517, 547, and 2679 of title 28 of the United States Code;

(3) include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payment of interest, relating to the Secretary's obligations and rights to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this part will be achieved; and any term, condition, and covenant made pursuant to this paragraph or pursuant to any other provision of this part may be modified by the Secretary, after notice and opportunity for a hearing on the record, if the Secretary finds that the modification is necessary to protect the United States from the risk of unreasonable loss;

(4) subject to the specific limitations in this part, consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note or other instrument evidencing a loan which has been insured by the Secretary under this part;

(5) enforce, pay, or compromise, any claim on, or arising because of, any such insurance or any guaranty agreement under section 428(c); and

(6) enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption.

(b) FINANCIAL OPERATIONS RESPONSIBILITIES.—The Secretary shall, with respect to the financial operations arising by reason of this part—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

(2) maintain with respect to insurance under this part an integral set of accounts and prepare financial statements in accordance with generally accepted accounting principles, which shall be audited annually by the General Accounting Office in conformity with generally accepted Government auditing standards except that the transactions of the Secretary, including the settlement of insurance claims and of claims for payments pursuant to section 428, and transactions related thereto and vouchers approved by the Secretary in connection with such transactions, shall be final and conclusive upon all accounting and other officers of the Government.

(c) DATA COLLECTION.—

(1) COLLECTION BY CATEGORY OF LOAN.—(A) For loans insured after December 31, 1976, or in the case of each insurer after such earlier date where the data required by this subsection are available, the Secretary and all other insurers under this part shall collect and accumulate all data relating to (i) loan volume insured and (ii) defaults reimbursed or default rates according to the categories of loans listed in subparagraph (B) of this paragraph.

(B) The data indicated in subparagraph (A) of this paragraph shall be accumulated according to the category of lender making the loan and shall be accumulated separately for lenders who are (i) eligible institutions, (ii) State or private, nonprofit direct lenders, (iii) commercial financial institutions who are banks, savings and loan associations, or credit unions, and (iv) all other types of institutions or agencies.

(C) The Secretary may designate such additional subcategories within the categories specified in subparagraph (B) of this paragraph as the Secretary deems appropriate.

(D) The category or designation of a loan shall not be changed for any reason, including its purchase or acquisition by a lender of another category.

(2) COLLECTION AND REPORTING REQUIREMENTS.—(A) The Secretary shall collect data under this subsection from all insurers under this part and shall publish not less often than once every fiscal year a report showing loan volume guaranteed and default data for each category specified in subparagraph (B) of paragraph (1) of this subsection and for the total of all lenders.

(B) The reports specified in subparagraph (A) of this paragraph shall include a separate report for each insurer under this part including the Secretary, and where an insurer insures loans for lenders in more than one State, such insurer's report shall list all data separately for each State.

(3) INSTITUTIONAL, PUBLIC, OR NONPROFIT LENDERS.—For purposes of clarity in communications, the Secretary shall separately identify loans made by the lenders referred to in clause (i) and loans made by the lenders referred to in clause (ii) of paragraph (1)(B) of this subsection.

(d) DELEGATION.—

(1) REGIONAL OFFICES.—The functions of the Secretary under this part listed in paragraph (2) of this subsection may be delegated to employees in the regional office of the Department.

(2) DELEGABLE FUNCTIONS.—The functions which may be delegated pursuant to this subsection are—

(A) reviewing applications for loan insurance under section 429 and issuing contracts for Federal loan insurance, certificates of insurance, and certificates of comprehensive insurance coverage to eligible lenders which are financial or credit institutions subject to examination and supervision by an agency of the United States or of any State;

(B) receiving claims for payments under section 430(a), examining those claims, and pursuant to regulations of the Secretary, approving claims for payment, or requiring lenders to take additional collection action as a condition for payment of claims; and

(C) certifying to the central office when collection of defaulted loans has been completed, compromising or agreeing to the modification of any Federal claim against a borrower (pursuant to regulations of the Secretary issued under section 432(a)), and recommending litigation with respect to any such claim.

(e) USE OF INFORMATION ON BORROWERS.—Notwithstanding any other provision of law, the Secretary may provide to eligible lenders, and to any guaranty agency having a guaranty agreement under section 428(c)(1), any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived.

(f) AUDIT OF FINANCIAL TRANSACTIONS.—

(1) COMPTROLLER GENERAL AND INSPECTOR GENERAL AUTHORITY.—The Comptroller General and the Inspector General of the Department of Education shall each have the authority to conduct an audit of the financial transactions of—

(A) any guaranty agency operating under an agreement with the Secretary pursuant to section 428(b);

(B) any eligible lender as defined in section 435(d)(1) (D), (F), or (H);

(C) a representative sample of eligible lenders under this part, upon the request of the Committee on Education and Labor of the House of Representatives or the Committee on Labor and Human Resources of the Senate, with respect to the payment of the special allowance under section 438 in order to evaluate the program authorized by this part; and

(D) any Authority required to file a plan for doing business under section 438(d).

(2) ACCESS TO RECORDS.—For the purpose of carrying out this subsection, the records of any entity described in subparagraph (A), (B), (C), or (D) of paragraph (1) shall be available to the Comptroller General and the Inspector General of the Department of Education. For the purpose of section 716(c) of title 31, United States Code, such records shall be considered to be records to which the Comptroller General has access by law, and for the purpose of section 6(a)(4) of the Inspector General Act of 1978, such records shall be considered to be records necessary in the performance of functions assigned by that Act to the Inspector General.

(3) DEFINITION OF RECORDS.—For the purpose of this subsection, the term "record" includes any information, document, report, answer, account, paper, or other data or documentary evidence.

(4) AUDIT PROCEDURES.—In conducting audits pursuant to this subsection, the Comptroller General and the Inspector General of the Department of Education shall audit the records to determine the extent to which they, at a minimum, comply with Federal statutes, and rules and regulations prescribed by the Secretary, in effect at the time that the record was made, and in no case shall the Comptroller General or the Inspector General apply subsequently determined standards, procedures, or regulations to the records of such agency, lender, or Authority.

(g) CIVIL PENALTIES.—

(1) AUTHORITY TO IMPOSE PENALTIES.—Upon determination, after reasonable notice and opportunity for a hearing on the record, that a lender or a guaranty agency—

(A) has violated or failed to carry out any provision of this part or any regulation prescribed under this part, or

(B) has engaged in substantial misrepresentation of the nature of its financial charges,

the Secretary may impose a civil penalty upon such lender or agency of not to exceed $25,000 for each violation, failure, or misrepresentation.

(2) LIMITATIONS.—No civil penalty may be imposed under paragraph (1) of this subsection unless it is determined that the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from—

(A)(i) a clear and consistent pattern or practice of violations, failures, or substantial misrepresentations in which the lender or guaranty agency did not maintain procedures reasonably adapted to avoid the violation, failure, or substantial misrepresentation;

(ii) gross negligence; or

(iii) willful actions on the part of the lender or guaranty agency; and

(B) the violation, failure, or substantial misrepresentation is material.

(3) CORRECTION OF FAILURE.—A lender or guaranty agency has no liability under paragraph (1) of this subsection if, prior to the institution of an action under that paragraph, the lender or guaranty agency cures or corrects the violation or failure or notifies the person who received the substantial mis-

representation of the actual nature of the financial charges involved.

(4) Consideration as single violation.—For the purpose of paragraph (1) of this subsection, violations, failures, or substantial misrepresentations arising from a specific practice of a lender or guaranty agency shall be deemed to be a single violation, failure, or substantial misrepresentation even if the violation, failure, or substantial misrepresentation affects more than one loan or more than one borrower, or both, and the Secretary may only impose a single civil penalty for each such violation, failure, or substantial misrepresentation.

(5) Assignees not liable for violations by others.—If a loan affected by a violation, failure, or substantial misrepresentation is assigned to another holder, the lender or guaranty agency responsible for the violation, failure, or substantial misrepresentation shall remain liable for any civil money penalty provided for under paragraph (1) of this subsection, but the assignee shall not be liable for any such civil money penalty.

(6) Compromise.—Until a matter is referred to the Attorney General, any civil penalty under paragraph (1) of this subsection may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the Secretary shall consider the appropriateness of the penalty to the resources of the lender or guaranty agency subject to the determination; the gravity of the violation, failure, or substantial misrepresentation; the frequency and persistence of the violation, failure, or substantial misrepresentation; and the amount of any losses resulting from the violation, failure, or substantial misrepresentation. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the lender or agency charged, unless the lender or agency has, in the case of a final agency determination, commenced proceedings for judicial review within 90 days of the determination, in which case the deduction may not be made during the pendency of the proceeding.

(h) Authority of the Secretary To Impose and Enforce Limitations, Suspensions, and Terminations.—

(1) Imposition of sanctions.—(A) If the Secretary, after a reasonable notice and opportunity for hearing to an eligible lender, finds that the eligible lender—

(i) has substantially failed—

(I) to exercise reasonable care and diligence in the making and collecting of loans under the provisions of this part,

(II) to make the reports or statements under section 428(a)(4), or

(III) to pay the required loan insurance premiums to any guaranty agency, or

(ii) has engaged in—

(I) fraudulent or misleading advertising or in solicitations that have resulted in the making of loans insured or guaranteed under this part to borrowers who are ineligible; or

(II) the practice of making loans that violate the certification for eligibility provided in section 428,

the Secretary shall limit, suspend, or terminate that lender from participation in the insurance programs operated by guaranty agencies under this part.

(B) The Secretary shall not lift any such limitation, suspension, or termination until the Secretary is satisfied that the lender's failure under subparagraph (A)(i) of this paragraph or practice under subparagraph (A)(ii) of this paragraph has ceased and finds that there are reasonable assurances that the lender will—

(i) exercise the necessary care and diligence,

(ii) comply with the requirements described in subparagraph (A)(i), or

(iii) cease to engage in the practices described in subparagraph (A)(ii),

as the case may be.

(2) REVIEW OF SANCTIONS ON LENDERS.—(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(U) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the lender. The Secretary shall disqualify such lender from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the lender has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the lender will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

(3) REVIEW OF SANCTIONS ON ELIGIBLE INSTITUTIONS.—(A) The Secretary shall, in accordance with sections 556 and 557 of title 5, United States Code, review each limitation, suspension, or termination imposed by any guaranty agency pursuant to section 428(b)(1)(T) within 60 days after receipt by the Secretary of a notice from the guaranty agency of the imposition of such limitation, suspension, or termination, unless the right to such review is waived in writing by the institution. The Secretary shall disqualify such institution from participation in the student loan insurance program of each of the guaranty agencies under this part, and notify such guaranty agencies of such disqualification—

(i) if such review is waived; or

(ii) if such review is not waived, unless the Secretary determines that the limitation, suspension, or termination was not imposed in accordance with requirements of such section.

(B) The Secretary shall not lift any such disqualification until the Secretary is satisfied that the institution has corrected the failures which led to the limitation, suspension, or termination, and finds that there are reasonable assurances that the institution will, in the future, comply with the requirements of this part. The Secretary shall notify each guaranty agency of the lifting of any such disqualification.

(i) Authority To Sell Defaulted Loans.—In the event that all other collection efforts have failed, the Secretary is authorized to sell defaulted student loans assigned to the United States under this part to collection agencies, eligible lenders, guaranty agencies, or other qualified purchaser on such terms as the Secretary determines are in the best financial interests of the United States. A loan may not be sold pursuant to this subsection if such loan is in repayment status.

(20 U.S.C. 1082) Enacted Nov. 8, 1965, P.L. 89-329, sec. 432, 79 Stat. 1246; amended Aug. 3, 1968, P.L. 90-460, sec. 3, 82 Stat. 638; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2127, 2128, 2129; amended October 3, 1980, P.L. 96-374, secs. 416(c), 1391, 94 Stat. 1421, 1503; amended April 7, 1986, P.L. 99-272, sec. 16024, 100 Stat. 351; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1401; amended June 3, 1987, P.L. 100-50, sec. 10(x), (y), 101 Stat. 346.

STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS

Sec. 433. (a) Required Disclosure Before Disbursement.—Each eligible lender shall, at or prior to the time such lender disburses a loan which is insured or guaranteed under this part (other than a loan made under section 428C), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosure shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges, such as the origination fee and insurance premium, collected by the lender at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the lender may impose, and the minimum annual payment required by law;

(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an

estimate of the projected monthly payment, given such cumulative balance;

(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to section 902 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2141, note);

(11) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default will be reported to a credit bureau or credit reporting agency;

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower the information required under this subsection. Any disclosure required by this subsection may be made by an eligible lender either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosure shall include—

(1) the name of the eligible lender, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan and of the availability and terms of such other options, except that such explanation is not required when the loan being made is a consolidation loan under section 428C;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) Cost of Disclosure and Consequences of Nondisclosure.—Such information shall be available without cost to the borrower. The failure of an eligible lender to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary under a contract of insurance or reinsurance, or the obligation of a guaranty agency under a contract of guaranty. Nothing in this section shall be construed as subjecting the lender to the Truth in Lending Act with regard to loans made under this part. The Secretary may limit, suspend, or terminate the continued participation of an eligible lender in making loans under this part for failure by that lender to comply with this section.

(d) Separate Statement.—Each eligible lender shall, at the time such lender notifies a borrower of approval of a loan which is insured or guaranteed under this part, provide the borrower with a separate paper which summarizes (in plain English) the rights and responsibilities of the borrower with respect to the loan, including a statement of the consequences of defaulting on the loan and a statement that each borrower who defaults will be reported to a credit bureau. The requirement of this subsection shall be in addition to the information required by subsection (a) of this section.

(20 U.S.C. 1083) Enacted Nov. 8, 1965, P.L. 89-329, sec. 433, 78 Stat. 1247; amended Oct. 16, 1968, P.L. 90-575, sec. 116, 82 Stat. 102; amended June 23, 1972; P.L. 92-318; sec. 132(c), 86 Stat. 261; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2129; amended June 15, 1977, P.L. 95-43, sec. 1(a)(34), 91 Stat. 216; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1406; amended June 3, 1987, P.L. 100-50, sec. 10(z), 101 Stat. 346.

PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS

Sec. 434. Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the National Credit Union Administration, have power to make insured loans to student members in accordance with the provisions of this part relating to federally insured loans, or in accordance with the provisions of any State or nonprofit private student loan insurance program which meets the requirements of section 428(a)(1)(B).

(20 U.S.C. 1084) Enacted Nov. 8, 1965, P.L. 89-329, sec. 434, 79 Stat. 1247; amended Oct. 16, 1969, P.L. 90-575, sec. 116, 82 Stat. 1024; amended June 23, 1972, P.L. 92-318, sec. 132D(e), 86 Stat 264; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2129, 2130; amended October 17, 1986, P.L. 99-448, sec. 402(a), 100 Stat. 1408.

DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM

Sec. 435. As used in this part:

(a) Eligible Institution.—

(1) In general.—The term "eligible institution" means—

(A) an institution of higher education;

(B) a vocational school; or

(C) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Secretary for the purpose of this part,

except that such term does not include any such institution or school which employs or uses commissioned salesmen to promote the availability of any loan program described in section 428(a)(1), 428A, or 428B at that institution or school.

(2) FOREIGN MEDICAL SCHOOLS.—For the purpose of qualifying an institution under paragraph (1)(C) of this subsection, the Secretary shall establish criteria by regulation. In the case of a graduate medical school outside the United States, such criteria shall include a requirement that a student attending a medical school is ineligible for loans made, insured, or guaranteed under this part unless at least 60 percent of the students enrolled in such school are nationals of the country in which the school is located. A school that is unable to meet that criteria may establish the eligibility of its students for such loans if the United States nationals attending such school achieve a pass rate on the examinations administered by the Educational Commission for Foreign Medical Graduates that is—

(A) not less than 45 percent for students taking such examination in the first and second years after the date of enactment of the Higher Education Amendments of 1986; and

(B) not less than 50 percent for students taking such examination in any subsequent year.

(b) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means an educational institution in any State which—

(1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, or who are beyond the age of compulsory school attendance;

(2) is legally authorized within such State to provide a program of education beyond secondary education;

(3) provides an educational program for which it awards a bachelor's degree or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or in the case of a hospital or health care facility, which provides training of not less than one year for graduates of accredited health professions programs, leading to a degree or certificate upon completion of such training;

(4) is a public or other nonprofit institution; and

(5) is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose or, if not so accredited—

(A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time; or

(B) is an institution whose credits are accepted on transfer by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited.

Such term includes any school which provides not less than a 1-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provisions of paragraphs (1), (2), (4), and (5). If the Secretary determines that a particular category of such schools does not meet the requirements of paragraph (5) because there is no nationally recognized accrediting agency or association qualified to accredit schools in such category, the Secretary shall, pending the establishment of such an accrediting agency or association, appoint an advisory committee, composed of persons specially qualified to evaluate training provided by schools in such category, which shall (i) prescribe the standards of content, scope, and quality which must be met in order to qualify schools in such category to participate in the program pursuant to this part, and (ii) determine whether particular schools not meeting the requirements of paragraph (5) meet those standards. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authorities as to the quality of training offered.

(c) VOCATIONAL SCHOOL.—The term "vocational school" means a business or trade school, or technical institution or other technical or vocational school, in any State, which—

(1) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit (as determined by the institution under section 481(d)) from the training offered by such institution;

(2) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations;

(3) has been in existence for 2 years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and

(4) is accredited—

(A) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph;

(B) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this paragraph; and

(C) if the Secretary determines there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools in order for loans to students attending them to be insurable under this part and shall also determine whether particular schools meet those standards.

For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded.

(d) ELIGIBLE LENDER.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (5), the term "eligible lender" means—

(A) a National or State chartered bank, a mutual savings bank, a savings and loan association, a stock savings bank, a trust company, or a credit union which—

(i) is subject to examination and supervision by an agency of the United States or of the State in which its principal place of operation is established, and

(ii) does not have as its primary consumer credit function the making or holding of loans made to students under this part unless (I) it is a bank which is wholly owned by a State, (II) it is a single wholly owned subsidiary of a bank holding company which does not have as its primary consumer credit function the making or holding of loans made to students under this part, or (III) it is a trust company which makes student loans as a trustee pursuant to an express trust and which operated as a lender under this part prior to January 1, 1981;

(B) a pension fund as defined in the Employee Retirement Income Security Act;

(C) an insurance company which is subject to examination and supervision by an agency of the United States or a State;

(D) in any State, a single agency of the State or a single nonprofit private agency designated by the State;

(E) an eligible institution which meets the requirements of paragraphs (2) through (5) of this subsection;

(F) for purposes only of purchasing and holding loans made by other lenders under this part, the Student Loan Marketing Association or an agency of any State functioning as a secondary market;

(G) for purposes of making loans under sections 428A(d), 428B(d), 428C, and 439(q), the Student Loan Marketing Association;

(H) for purposes of making loans under sections 428(h) and 428(j), a guaranty agency;

(I) a Rural Rehabilitation Corporation, or its successor agency, which has received Federal funds under Public Law 499, Eighty-first Congress (64 Stat. 98 (1950)); and

(J) for purpose of making loans under section 428C, any nonprofit private agency functioning in any State as a secondary market.

(2) ADDITIONAL REQUIREMENTS OF ELIGIBLE INSTITUTIONS.—To be an eligible lender under this part, an eligible institution—

(A) shall employ at least one person whose full-time responsibilities are limited to the administration of programs of financial aid for students attending such institution;

(B) shall not be a home study school;

(C) shall make loans to not more than 50 percent of the undergraduate students at the institutions;[1] and

(D) shall not make a loan, other than a loan to a graduate or professional student, unless the borrower has previously received a loan from the school or has been denied a loan by an eligible lender;

except that the requirements of subparagraphs (C) and (D) shall not apply with respect to loans made, and loan commitments made, after the date of enactment of the Higher Education Amendments of 1986 and prior to July 1, 1987.[2]

(3) Disqualification for high default rates.—The term "eligible lender" does not include any eligible institution in any fiscal year immediately after the fiscal year in which the Secretary determines, after notice and opportunity for a hearing, that for each of 2 consecutive years, 15 percent or more of the total amount of such loans as are described in section 428(a)(1) made by the institution with respect to students at that institution and repayable in each such year, are in default, as defined in section 435(o).

(4) Waiver of disqualification.—Whenever the Secretary determines that—

(A) there is reasonable possibility that an eligible institution may, within 1 year after a determination is made under paragraph (3), improve the collection of loans described in section 428(a)(1), so that the application of paragraph (3) would be a hardship to that institution, or

(B) the termination of the lender's status under paragraph (3) would be a hardship to the present or for prospective students of the eligible institution, after considering the management of that institution, the ability of that institution to improve the collection of loans, the opportunities that institution offers to economically disadvantaged students, and other related factors,

the Secretary shall waive the provisions of paragraph (3) with respect to that institution. Any determination required under this paragraph shall be made by the Secretary prior to the termination of an eligible institution as a lender under the exception of paragraph (3). Whenever the Secretary grants a waiver pursuant to this paragraph, the Secretary shall provide technical assistance to the institution concerned in order to improve the collection rate of such loans.

(5) Disqualification for use of certain incentives.—The term "eligible lender" does not include any lender that the Secretary determines, after notice and opportunity for a hearing, has after the date of enactment of this paragraph—

(A) offered, directly or indirectly, points, premiums, payments, or other inducements, to any educational institution or individual in order to secure applicants for loans under this part;

(B) conducted unsolicited mailings to students of student loan application forms, except to students who have previously received loans under this part from such lender;

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[1] So in original. Should be institution.

[2] So in original. Indentation is wrong.

(C) offered, directly or indirectly, loans under this part as an inducement to a prospective borrower to purchase a policy of insurance or other product; or

(D) engaged in fraudulent or misleading advertising.

(e) LINE OF CREDIT.—The term "line of credit" means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

(f) DUE DILIGENCE.—The term "due diligence" requires the utilization by a lender, in the servicing and collection of loans insured under this part, of collection practices at least as extensive and forceful as those generally practiced by financial institutions for the collection of consumer loans.

(g) TEMPORARILY TOTALLY DISABLED.—

(1) IN GENERAL.—The term "temporarily totally disabled" when used with respect to a borrower means a borrower who, by reason of injury or illness, cannot be expected to be able to attend an eligible institution or to be gainfully employed during a reasonable period of recovery from such injury or illness not to exceed 3 years.

(2) DISABLED DEPENDENT OF A BORROWER.—Such term when used with respect to a disabled dependent of a borrower means a spouse or other dependent who, during a period of injury or illness of not less than 3 months, requires continuous nursing or similar services.

(3) DETERMINATIONS.—The determination that a borrower, or dependent of the borrower is temporarily totally disabled must be established by a sworn affidavit of a qualified physician.

(h) PARENTAL LEAVE.—The term "parental leave" means a period—

(1) during which the borrower is pregnant, caring for his or her newborn child, or caring for his or her child immediately following the placement of the child through adoption;

(2) during which such borrower is not in attendance at an eligible institution or gainfully employed; and

(3) which follows, by 6 months or less, a period during which the borrower was enrolled in at least a half-time course of study at an eligible institution.

(i) HOLDER.—The term "holder" means an eligible lender who owns a loan.

(j) GUARANTY AGENCY.—The term "guaranty agency" means any State or nonprofit private institution or organization with which the Secretary has an agreement under section 428(b).

(k) INSURANCE BENEFICIARY.—The term "insurance beneficiary" means the insured or its authorized representative assigned in accordance with section 429(d).

(l) DEFAULT.—The term "default" includes only such defaults as have existed for (1) 180 days in the case of a loan which is repayable in monthly installments, or (2) 240 days in the case of a loan which is repayable in less frequent installments.

(20 U.S.C. 1085) Enacted Nov. 8, 1965, P.L. 89-329, sec. 435, 79 Stat. 1247; as amended Oct. 29, 1966, P.L. 89-698, sec. 204, 80 Stat. 1072; amended Oct. 16, 1968, P.L. 90-575, secs. 116, 118, 82 Stat. 1023-26; amended October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2130, 2131; amended June 15, 1977, P.L. 95-43, sec. 1 (a)(35),

(a)(36), 91 Stat. 216; amended October 3, 1980, P.L. 96-374, secs. 412(e), 421(e)(2), 1391, 94 Stat. 1418, 1432, 1503; amended April 7, 1986, P.L. 99-272, secs. 16017(b)(2), 16020, 100 Stat. 343, 349; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1408; amended June 3, 1987, P.L. 100-50, sec. 10(aa), 101 Stat. 347.

DISTRICT OF COLUMBIA STUDENT LOAN INSURANCE PROGRAM

Sec. 436. (a) Authority.—The government of the District of Columbia is authorized (1) to establish a student loan insurance program which meets the requirements of this part for a State loan insurance program in order to enter into agreements with the Secretary for the purposes of this title, (2) to enter into such agreements with the Secretary, (3) to use amounts appropriated for the purposes of this section to establish a fund for such purposes and for expenses in connection therewith, and (4) to accept and use donations for the purposes of this section.

(b) Binding Effect on Minors.—Notwithstanding the provisions of any applicable law, if the borrower, on any loan insured under the program established pursuant to this section, is a minor, any otherwise valid vote or other written agreement executed by him for the purposes of such loan shall create a binding obligation.

(c) Appropriations Authorized.—There are authorized to be appropriated such amounts as may be necessary for the purposes of this section.

(20 U.S.C. 1086) Enacted Nov. 3, 1966, P.L. 89-752, sec. 12, 80 Stat. 1244; amended Oct. 16, 1968, P.L. 90-575, sec. 116, 82 Stat. 1024; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2132, 2133; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1413.

REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS

Sec. 437. (a) Repayment in Full.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

(b) Repayment of Amount Discharged.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) is relieved of his obligation to repay such loan, in whole or in part, through a discharge in bankruptcy, the Secretary shall repay the amount of the loan so discharged.

(20 U.S.C. 1087) Enacted Oct. 16, 1968, P.L. 90-575, sec. 113, 82 Stat. 1020; amended June 23, 1972, P.L. 92-318, sec. 132D, 86 Stat. 263; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2133; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1414.

SPECIAL ALLOWANCES

Sec. 438. (a) Findings.—In order to assure (1) that the limitation on interest payments or other conditions (or both) on loans made or insured under this part, do not impede or threaten to impede the carrying out of the purposes of this part or do not cause the return to holders of loans to be less than equitable, (2) that incentive payments on such loans are paid promptly to eligible lenders, and (3) that appropriate consideration of relative administrative costs and money market conditions is made in setting the quarterly rate of such payments, the Congress finds it necessary to establish an improved method for the determination of the quarterly rate of the special allowances on such loans, and to provide for a thorough, expeditious, and objective examination of alternative methods for the determination of the quarterly rate of such allowances.

(b) COMPUTATION AND PAYMENT.—

(1) QUARTERLY PAYMENT BASED ON UNPAID BALANCE.—A special allowance shall be paid for each of the 3-month periods ending March 31, June 30, September 30, and December 31 of every year and the amount of such allowance paid to any holder with respect to any 3-month period shall be a percentage of the average unpaid balance of principal (not including unearned interest added to principal) of all eligible loans held by such holder during such period.

(2) RATE OF SPECIAL ALLOWANCE.—(A) Subject to subparagraphs (B), (C), and (D) and paragraph (4), the special allowance paid pursuant to this subsection on loans shall be computed (i) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period, (ii) by subtracting the applicable interest rate on such loans from such average, (iii) by adding 3.25 percent to the resultant percent, and (iv) by dividing the resultant percent by 4.

(B)(i) The quarterly rate of the special allowance for holders of loans which were made or purchased with funds obtained by the holder from the issuance of obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954 shall be one-half the quarterly rate of the special allowance established under subparagraph (A), except that, in determining the rate for the purpose of this division, subparagraph (A)(iii) shall be applied by substituting "3.5 percent" for "3.25 percent" . Such rate shall also apply to holders of loans which were made or purchased with funds obtained by the holder from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in the preceding sentence of this subparagraph or from income on the investment of such funds. This subparagraph shall not apply to loans which were made or insured prior to October 1, 1980.

(ii) The rate set under division (i) shall not be less than (I) 2.5 percent per year in the case of loans for which the applicable interest rate is 7 percent per year, (II) 1.5 percent per year in the case of loans for which the applicable interest rate is 8 percent per year, or (III) 0.5 percent in the case of loans for which the applicable rate is 9 percent per year.

(iii) No special allowance may be paid under this subparagraph unless the issuer of such obligations complies with subsection (d) of this section.

(C) In the case of loans made pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid unless the rate determined for any 12-month period under subparagraph (B) of such section exceeds 12 percent.

(D)(i) In the case of loans made or purchased directly from funds loaned or advanced pursuant to a qualified State obligation, subparagraph (A)(iii) shall be applied by substituting "3.5 percent" for "3.25 percent".

(ii) For the purpose of division (i) of this subparagraph, the term "qualified State obligation" means—

(I) an obligation of the Maine Educational Loan Marketing Corporation to the Student Loan Marketing Association pursuant to an agreement entered into on January 31, 1984; or

(II) an obligation of the South Carolina Student Loan Corporation to the South Carolina National Bank pursuant to an agreement entered into on July 30, 1986.

(3) Contractual right of holders to special allowance.—The holder of an eligible loan shall be deemed to have a contractual right against the United States, during the life of such loan, to receive the special allowance according to the provisions of this section. The special allowance determined for any such 3-month period shall be paid promptly after the close of such period, and without administrative delay after receipt of an accurate and complete request for payment, pursuant to procedures established by regulations promulgated under this section.

(4) Penalty for late payment.—(A) If payments of the special allowances payable under this section or of interest payments under section 428(a) with respect to a loan have not been made within 30 days after the Secretary has received an accurate, timely, and complete request for payment thereof, the special allowance payable to such holder shall be increased by an amount equal to the daily interest accruing on the special allowance and interest benefits payments due the holder.

(B) Such daily interest shall be computed at the daily equivalent rate of the sum of the special allowance rate computed pursuant to paragraph (2) and the interest rate applicable to the loan and shall be paid for the later of (i) the 31st day after the receipt of such request for payment from the holder, or (ii) the 31st day after the final day of the period or periods covered by such request, and shall be paid for each succeeding day until, and including, the date on which the Secretary authorizes payment.

(C) For purposes of reporting to the Congress the amounts of special allowances paid under this section, amounts of special allowances paid pursuant to this paragraph shall be segregated and reported separately.

(5) Definition of eligible loan.—As used in this section, the term "eligible loan" means a loan—

(A)(i) on which a portion of the interest is paid on behalf of the student and for the student's account to the holder of the loan under section 428(a);

(ii) which is made under section 428A, 428B, 428C, or 439(o); or

(iii) which was made prior to October 1, 1981; and

(B) which is insured under this part, or made under a program covered by an agreement under section 428(b) of this Act.

(6) Regulation of time and manner of payment.—The Secretary shall pay the holder of an eligible loan, at such time or

times as are specified in regulations, a special allowance prescribed pursuant to this subsection subject to the condition that such holder shall submit to the Secretary, at such time or times and in such a manner as the Secretary may deem proper, such information as may be required by regulation for the purpose of enabling the Secretary to carry out his functions under this section and to carry out the purposes of this section.

(7) Use of average quarterly balance.—The Secretary shall permit lenders to calculate interest benefits and special allowance through the use of the average quarterly balance method until July 1, 1988.

(c) Origination Fees.—

(1) Deduction from interest and special allowance subsidies.—Notwithstanding subsection (b), the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder shall be reduced by the Secretary by the amount which the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection. If the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.

(2) Amount of origination fees.—With respect to any loan (other than loans made under sections 428A, 428B, 428C, and 439(o)) for which a completed note or other written evidence of the loan was sent or delivered to the borrower for signing on or after 10 days after the date of enactment of the Postsecondary Student Assistance Amendments of 1981, each eligible lender under this part is authorized to charge the borrower an origination fee in an amount not to exceed 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

(3) Relation to applicable interest.—Such origination fee shall not be taken into account for purposes of determining compliance with section 427A.

(4) Disclosure required.—The lender shall disclose to the borrower the amount and method of calculating the origination fee.

(5) Prohibition on department compelling origination fee collections by lenders.—Nothing in this subsection shall be construed to permit the Secretary to require any lender that is making loans that are insured or guaranteed under this part, but for which no amount will be payable for interest under section 428(a)(3)(A) or for special allowances under subsection (b) of this section, to collect any origination fee or to submit the sums collected as origination fees to the United States. The Secretary shall, not later than January 1, 1987, return to any such lender any such sums collected before the enactment of this paragraph, together with interest thereon.

(d) Lending From Proceeds of Tax Exempt Obligations.—

(1) PLAN FOR DOING BUSINESS REQUIRED.—In order for the holders of loans any portion of which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section, the Authority shall submit to the Governor of the State, and to the guaranty agency determined by the Secretary to be the principal guaranty agency for the State, a plan for doing business. The Governor shall, after consultation with the guaranty agency, approve or disapprove the plan within 30 days of the receipt of the proposed plan from the Authority. Such plan shall also be transmitted to the Secretary within 60 days after approval.

(2) CONTENTS OF PLAN.—Each such plan shall contain provisions designed to assure that—

(A) no eligible lender in the area served by the Authority will be excluded from participation in the program of the Authority and all eligible lenders may participate in the program on the same terms and conditions if eligible lenders are going to participate in the program;

(B) no director or staff member of the Authority who receives compensation from the Authority may own stock in, or receive compensation from, any agency that would contract to service and collect the loans of the Authority;

(C) student loans will not be purchased from participating lenders at a premium or discount amounting to more than 1 percent of the unpaid principal amount borrowed plus accrued interest to the date of acquisition, but a reasonable loan transfer fee may be paid by the purchaser;

(D) the Authority will, within the limit of funds available and subject to the applicable State and Federal law, make loans to, or purchase loans incurred by, all eligible students who are residents of, or who attend an eligible institution within, the area served by the Authority;

(E) the Authority has a plan under which the Authority will pursue the development of new lender participation in a continuing program of benefits to students together with assurances of existing lender commitments to the program; and

(F) there will be an annual audit of the Authority by a certified public accounting firm which will include review of compliance by the Authority with the provisions of the plan.

(3) NONDISCRIMINATION.—In order for the holders of loans which were made or purchased with funds obtained by the holder from an Authority issuing obligations, the income from which is exempt from taxation under the Internal Revenue Code of 1954, to be eligible to receive a special allowance under subsection (b)(2) of this section on any such loans, the Authority shall not engage in any pattern or practice which results in a denial of a borrower's access to loans under this part because of the borrower's race, sex, color, religion, national origin, age, handicapped status, income, attendance at a particular eligible institution within the area served by the Authority, length of

the borrower's educational program, or the borrower's academic year in school.

(4) REPORT BY THE SECRETARY.—The Secretary shall, no later than September 30, 1988, and each succeeding September 30th, submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate specifying—

(A) the amount of student loan credit provided through the use of tax-exempt obligations for the most recent fiscal year;

(B) an assessment of the impact of the availability of such financing on the availability of student credit in the areas served by the authorities issuing such obligations;

(C) an assessment of the need for additional tax-exempt financing for student credit for the next fiscal year; and

(D) any other information determined by the Secretary to be relevant to the purposes of the report.

(e) REGULATIONS TO PREVENT DENIAL OF LOANS TO ELIGIBLE STUDENTS.—The Secretary shall adopt or amend appropriate regulations pertaining to programs carried out under this part to prevent, where practicable, any practices which the Secretary finds have denied loans to a substantial number of eligible students.

(20 U.S.C. 1087-1) Enacted June 23, 1972, P.L. 92-318, sec. 132E(a), 86 Stat. 264; amended Oct. 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2133, 2134, 2135, 2136; amended June 15, 1977, P.L. 95-43, sec. 1(a)(37) (A), (B), (C), (D), (E), (F), 91 Stat. 216, 217; amended October 3, 1980, P.L. 96-374, sec. 420, 94 Stat. 1425; amended August 13, 1981, P.L. 97-35, secs. 532(b)(4), 534(b), 536(a), 95 Stat. 452, 453, 454, 455, 456; amended August 15, 1983, P.L. 98-79, sec. 7, 97 Stat. 482; amended April 7, 1986, P.L. 99-272, secs. 16013(d), 16017(b)(3), (c), 100 Stat. 340, 347; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1414; amended June 3, 1987, P.L. 100-50, sec. 10(d)(2), (bb), (cc), 101 Stat. 342, 347.

STUDENT LOAN MARKETING ASSOCIATION

SEC. 439. (a) PURPOSE.—The Congress hereby declares that it is the purpose of this section (1) to establish a private corporation which will be financed by private capital and which will serve as a secondary market and warehousing facility for student loans, including loans which are insured by the Secretary under this part or by a guaranty agency, and which will provide liquidity for student loan investments; (2) in order to facilitate secured transactions involving student loans, to provide for perfection of security interests in student loans either through the taking of possession or by notice filing; and (3) to assure nationwide the establishment of adequate loan insurance programs for students, to provide for an additional program of loan insurance to be covered by agreements with the Secretary.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby created a body corporate to be known as the Student Loan Marketing Association (hereinafter referred to as the "Association"). The Association shall have succession until dissolved. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue and jurisdiction in civil actions, to be a resident and citizen thereof. Offices may be established by the Associa-

tion in such other place or places as it may deem necessary or appropriate for the conduct of its business.

(2) EXEMPTION FROM STATE AND LOCAL TAXES.—The Association, including its franchise, capital, reserves, surplus, mortgages, or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(3) APPROPRIATIONS AUTHORIZED FOR ESTABLISHMENT.—There is hereby authorized to be appropriated to the Secretary $5,000,000 for making advances for the purpose of helping to establish the Association. Such advances shall be repaid within such period as the Secretary may deem to be appropriate in light of the maturity and solvency of the Association. Such advances shall bear interest at a rate not less than (A) a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period to maturity comparable to the maturity of such advances, adjusted to the nearest one-eighth of 1 percent, plus (B) an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses. Repayments of such advances shall be deposited into miscellaneous receipts of the Treasury.

(c) BOARD OF DIRECTORS.—

(1) BOARD MEMBERSHIP.—The Association shall have a Board of Directors which shall consist of twenty-one persons, one of whom shall be designated Chairman by the President.

(2) INTERIM BOARD.—An interim Board of Directors shall be appointed by the President, one of whom he shall designate an interim Chairman. The interim Board shall consist of twenty-one members, seven of whom shall be representative of banks or other financial institutions which are insured lenders pursuant to this section, seven of whom shall be representative of educational institutions, and seven of whom shall be representative of the general public. The interim Board shall arrange for an initial offering of common and preferred stocks and take whatever other actions are necessary to proceed with the operations of the Association.

(3) REGULAR BOARD.—When, in the judgment of the President, sufficient common stock of the Association has been purchased by educational institutions and banks or other financial institutions, the holders of common stock which are educational institutions shall elect seven members of the Board of Directors and the holders of common stock which are banks or other financial institutions shall elect seven members of the Board of Directors. The President shall appoint the remaining seven directors, who shall be representative of the general public.

(4) SUCCESSION OF REGULAR BOARD.—At the time the events described in paragraph (3) have occurred, the interim Board

shall turn over the affairs of the Association to the regular Board so chosen or appointed.

(5) Terms of appointed and elected members.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

(6) Meetings and functions of board.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(d) Authority of Association.—

(1) In general.—The Association is authorized, subject to the provisions of this section—

(A) pursuant to commitments or otherwise to make advances on the security of, purchase, or repurchase, service, sell or resell, offer participations, or pooled interests or otherwise deal in, at prices and on terms and conditions determined by the Association, student loans which are insured by the Secretary under this part or by a guaranty agency;

(B) to buy, sell, hold, underwrite, and otherwise deal in obligations, if such obligations are issued, for the purpose of making or purchasing insured loans, by a guaranty agency or by an eligible lender in a State described in section 435(d)(1) (D) or (F);

(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, or purchase of educational and training facilities and housing for students and faculties (including the underlying real property), and related equipment, instrumentation, and furnishings;

(D) to undertake a program of loan insurance pursuant to agreements with the Secretary under section 428, and except with respect to loans under subsection (o) of this section or under section 428C, the Secretary may enter into an agreement with the Association for such purpose only if the Secretary determines that (i) eligible borrowers are seeking and unable to obtain loans under this part, and (ii) no guaranty agency is capable of or willing to provide a program of loan insurance for such borrowers; and

(E) to undertake any other activity which the Board of Directors of the Association determines to be in furtherance of the programs of insured student loans authorized under this part or will otherwise support the credit needs of students, except that—

(i) in carrying out all such activities the purpose shall always be to provide secondary market and other support for lending programs offered by other organizations and not to replace or compete with such other programs;

(ii) nothing in this subparagraph (E) shall be deemed to authorize the Association to acquire, own, operate, or control any bank, savings and loan association, savings bank or credit union; and

(iii) not later than 30 days prior to the initial implementation of a program undertaken pursuant to this subparagraph (E), the Association shall advise the Chairman and the Ranking Member on the Committee on Labor and Human Resources of the Senate and the Chairman and the Ranking Member of the Committee on Education and Labor of the House of Representatives in writing of its plans to offer such program and shall provide information relating to the general terms and conditions of such program.

The Association is further authorized to undertake any activity with regard to student loans which are not insured or guaranteed as provided for in this subsection as it may undertake with regard to insured or guaranteed student loans. Any warehousing advance made on the security of such loans shall be subject to the provisions of paragraph (3) of this subsection to the same extent as a warehousing advance made on the security of insured loans.

(2) WAREHOUSING ADVANCES.—Any warehousing advance made under paragraph (1)(A) of this subsection shall be made on the security of (A) insured loans, (B) marketable obligations and securities issued, guaranteed, or insured by, the United States, or for which the full faith and credit of the United States is pledged for the repayment of principal and interest thereof, or (C) marketable obligations issued, guaranteed, or insured by any agency, instrumentality, or corporation of the United States for which the credit of such agency, instrumentality, or corporation is pledged for the repayment of principal and interest thereof, in an amount equal to the amount of such advance. The proceeds of any such advance secured by insured loans shall either be invested in additional insured loans or the lender shall provide assurances to the Association that during the period of the borrowing it will maintain a level of insured loans in its portfolio not less than the aggregate outstanding balance of such loans held at the time of the borrowing. The proceeds from any such advance secured by collateral described in clauses (B) and (C) shall be invested in additional insured student loans.

(3) PERFECTION OF SECURITY INTERESTS IN STUDENT LOANS.—Notwithstanding the provisions of any State law to the contrary, including the Uniform Commercial Code as in effect in any State, a security interest in insured student loans created on behalf of the Association or any eligible lender as defined in section 435(a) may be perfected either through the taking of possession of such loans or by the filing of notice of such security interest in such loans in the manner provided by such State law for perfection of security interests in accounts.

(4) FORM OF SECURITIES.—Securities issued pursuant to the offering of participations or pooled interests under paragraph (1) of this subsection may be in the form of debt obligations, or trust certificates of beneficial ownership, or both. Student loans set aside pursuant to the offering of participations or pooled interests shall at all times be adequate to ensure the timely principal and interest payments on such securities.

(5) RESTRICTIONS ON FACILITIES AND HOUSING ACTIVITIES.—Not less than 75 percent of the aggregate dollar amount of obligations bought, sold, held, insured, underwritten, and otherwise supported in accordance with the authority contained in paragraph (1)(C) shall be obligations which are listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

(e) ADVANCES TO LENDERS THAT DO NOT DISCRIMINATE.—The Association, pursuant to such criteria as the Board of Directors may prescribe, shall make advances on security or purchase student loans pursuant to subsection (d) only after the Association is assured that the lender (1) does not discriminate by pattern or practice against any particular class or category of students by requiring that, as a condition to the receipt of a loan, the student or his family maintain a business relationship with the lender, except that this clause shall not apply in the case of a loan made by a credit union, savings and loan association, mutual savings bank, institution of higher education, or any other lender with less than $75,000,000 in deposits, and (2) does not discriminate on the basis of race, sex, color, creed, or national origin.

(f) STOCK OF THE ASSOCIATION.—

(1) COMMON STOCK TO INSURED LENDERS AND ELIGIBLE INSTITUTIONS ONLY.—The Association shall have common stock having such par value as may be fixed by its Board of Directors from time to time which may be issued only to lenders under this part, pertaining to guaranteed student loans, who are qualified as insured lenders under this part or who are eligible institutions, as defined in section 435(a), other than an institution outside of the United States.

(2) VOTING RIGHTS.—Each share of common stock shall be entitled to one vote with rights of cumulative voting at all elections of Directors. Voting shall be by classes as described in subsection (c)(3).

(3) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any common share issued shall be fully transferable, except that, as to the Asso-

ciation, it shall be transferred only on the books of the Association.

(4) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on common stock and nonvoting common stock by the Board of Directors. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of common stock and nonvoting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

(5) NONVOTING COMMON STOCK.—The Association is authorized to issue nonvoting common stock having such par value as may be fixed by its Board of Directors from time to time. Any nonvoting common stock shall be freely transferable, except that, as to the Association, it shall be transferable only on the books of the Association.

(g) PREFERRED STOCK.—

(1) AUTHORITY OF BOARD.—The Association is authorized to issue nonvoting preferred stock having such par value as may be fixed by its Board of Directors from time to time. Any preferred share issued shall be freely transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

(2) RIGHTS OF PREFERRED STOCK.—The holders of the preferred shares shall be entitled to such rate of cumulative dividends and such shares shall be subject to such redemption or other conversion provisions as may be provided for at the time of issuance. No dividends shall be payable on any share of common stock at any time when any dividend is due on any share of preferred stock and has not been paid.

(3) PREFERENCE ON TERMINATION OF BUSINESS.—In the event of any liquidation, dissolution, or winding up of the Association's business, the holders of the preferred shares shall be paid in full at par value thereof, plus all accrued dividends, before the holders of the common shares receive any payment.

(h) DEBT OBLIGATIONS.—

(1) APPROVAL BY SECRETARIES OF EDUCATION AND THE TREASURY.—The Association is authorized with the approval of the Secretary of Education and the Secretary of the Treasury to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association. The authority of the Secretary of Education to approve the issuance of such obligations is limited to obligations issued by the Association and guaranteed by the Secretary pursuant to paragraph (2) of this subsection. Such obligations may be redeemable at the option of the Association before maturity in such manner as may be stipulated therein. The Secretary of the Treasury may not direct as a condition of his approval that any such issuance of obligations by the Association be made or sold to the Federal Financing Bank. To the extent that the average outstanding amount of the obligations owned by the Association pursuant to the authority contained in subsection (d)(1) (B) and (C) of this section and as to which the income is exempt from taxation under the Internal Revenue Code of 1954 does not exceed the average

stockholders' equity of the Association, the interest on obligations issued under this paragraph shall not be deemed to be interest on indebtedness incurred or continued to purchase or carry obligations for the purpose of section 265 of the Internal Revenue Code of 1954.

(2) GUARANTEE OF DEBT.—The Secretary is authorized, prior to October 1, 1984, to guarantee payment when due of principal and interest on obligations issued by the Association in an aggregate amount determined by the Secretary in consultation with the Secretary of the Treasury. Nothing in this section shall be construed so as to authorize the Secretary of Education or the Secretary of the Treasury to limit, control, or constrain programs of the Association or support of the Guaranteed Student Loan Program by the Association.

(3) BORROWING AUTHORITY TO MEET GUARANTEE OBLIGATIONS.—To enable the Secretary to discharge his responsibilities under guarantees issued by him, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the months preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. There is authorized to be appropriated to the Secretary such sums as may be necessary to pay the principal and interest on the notes or obligations issued by him to the Secretary of the Treasury.

(4) ACTION ON REQUEST FOR GUARANTEES.—Upon receipt of a request from the Association under this subsection requiring approvals by the Secretary of Education or the Secretary of the Treasury, the Secretary of Education or the Secretary of the Treasury shall act promptly either to grant approval or to advise the Association of the reasons for withholding approval. In no case shall such an approval be withheld for a period longer than 60 days unless, prior to the end of such period, the Secretary of Education and the Secretary of the Treasury submit to the Congress a detailed explanation of reasons for doing so.

(5) AUTHORITY OF TREASURY TO PURCHASE DEBT.—The Secretary of the Treasury is authorized to purchase any obligations

issued by the Association pursuant to this subsection as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $1,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States of comparable maturities as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(6) Sale of debt to federal financing bank.—Notwithstanding any other provision of law the Association is authorized to sell or issue obligations on the security of student loans, the payment of interest or principal of which has at any time been guaranteed under section 428 or 429 of this part, to the Federal Financing Bank.

(i) General Corporate Powers.—The Association shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use the corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its Board of Directors, bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have officers and exercise the power granted by this section in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Association;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define

their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(j) ACCOUNTING, AUDITING, AND REPORTING.—The accounts of the Association shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States, except that independent public accountants licensed to practice by such regulatory authority after December 31, 1970, and persons who, although not so certified or licensed, meet, in the opinion of the Secretary, standards of education and experience representative of the highest standards prescribed by the licensing authorities of the several States which provide for the continuing licensing of public accountants and which are prescribed by the Secretary in appropriate regulations may perform such audits until December 31, 1975. A report of each such audit shall be furnished to the Secretary of the Treasury. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the Secretary shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Association and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(k) REPORT ON AUDITS BY TREASURY.—A report of each such audit for a fiscal year shall be made by the Secretary of the Treasury to the President and to the Congress not later than 6 months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the President and the Congress informed of the operations and financial condition of the Association, together with such recommendations with respect thereto as the Secretary may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary, and to the Association.

(l) LAWFUL INVESTMENT INSTRUMENTS; EFFECT OF AND EXEMPTIONS FROM OTHER LAWS.—All obligations issued by the Association including those made under subsection (d)(4) shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the Association pursuant to this section shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States. The Association shall, for the purposes of section 14(b)(2) of the Federal Reserve Act, be deemed to be an agency of the United States. The obligations of the Association shall be deemed to be obligations of the United States for the purpose of section 3124 of title 31, United States Code. For the purpose of the distribution of its property pursuant to section 726 of title 11, United States Code, the Association shall be deemed a person within the meaning of such title. The priority established in favor of the United States by section 3713 of title 31, United States Code, shall not establish a priority over the indebtedness of the Association issued or incurred on or before September 30, 1992. The Federal Reserve Banks are authorized to act as depositaries, custodians, or fiscal agents, or a combination thereof, for the Association in the general performance of its powers under this section.

(m) PREPARATION OF OBLIGATIONS.—In order to furnish obligations for delivery by the Association, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Association. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations. The Secretary of the Treasury is authorized to promulgate regulations on behalf of the Association so that the Association may utilize the book-entry system of the Federal Reserve Banks.

(n) REPORT ON OPERATIONS AND ACTIVITIES.—The Association shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress a report of its operations and activities during each year.

(o) LOAN CONSOLIDATIONS.—

(1) IN GENERAL.—The Association or its designated agent may, upon request of a borrower, consolidate loans received under this title in accordance with section 428C.

(2) USE OF EXISTING AGENCIES AS AGENT.—The Association in making loans pursuant to this subsection in any State served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) may designate as its agent such agency or lender to perform such functions as the Association determines appropriate. Any agreements made pursuant to this subparagraph shall be on such terms and conditions as agreed upon by the Association and such agency or lender.

(p) ADVANCES FOR DIRECT LOANS BY GUARANTY AGENCIES.—

(1) IN GENERAL.—The Association shall make advances in each fiscal year from amounts available to it to each guaranty agency and eligible lender described in subsection 428(h)(1) which has an agreement with the Association which sets forth that advances are necessary to enable such agency or lender to make student loans in accordance with section 428(h) and that such advances will be repaid to the Association in accordance with such terms and conditions as may be set forth in the agreement and agreed to by the Association and such agency

or lender. Advances made under this subsection shall not be subject to subsection (d)(2) of this section.

(2) LIMITATION.—No advance may be made under this subsection unless the guaranty agency or lender makes an application to the Association, which shall be accompanied by such information as the Association determines to be reasonably necessary.

(q) LENDER OF LAST RESORT.—

(1) ACTION AT REQUEST OF SECRETARY.—(A) Whenever the Secretary determines that eligible borrowers in a State not served by a guaranty agency or an eligible lender in a State described in section 435(d)(1) (D) or (F) are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary. The Association shall give preference to such States in making loans under this subsection.

(B) Loans made pursuant to this subsection shall be insurable by the Secretary under section 429 with a certificate of comprehensive insurance coverage provided for under section 429(b)(1).

(2) ISSUANCE AND COVERAGE OF LOANS.—(A) Whenever the Secretary, after consultation with, and with the agreement of, representatives of the guaranty agency in a State, or an eligible lender in a State described in section 435(d)(1)(D), determines that a substantial portion of eligible borrowers in such State or within an area of such State are seeking and are unable to obtain loans under this part, the Association or its designated agent may begin making loans in accordance with this subsection at the request of the Secretary.

(B) Loans made pursuant to this subsection shall be insurable by the agency identified in subparagraph (A) having an agreement pursuant to section 428(b). For loans insured by such agency, the agency shall provide the Association with a certificate of comprehensive insurance coverage, if the Association and the agency have mutually agreed upon a means to determine that the agency has not already guaranteed a loan under this part to a student which would cause a subsequent loan made by the Association to be in violation of any provision under this part.

(3) TERMINATION OF LENDING.—The Association or its designated agent shall cease making loans under this part in any State at such time as it is determined by the Secretary, with regard to loans made under paragraph (1), or by any party to the agreement required by paragraph (2), that—

(A) the conditions which caused the implementation of this subsection have ceased to exist; or

(B) the implementation of this subsection has either (i) further reduced the availability of loans from other sources in the applicable geographical area, or (ii) inhibited the formation in a State of an agency which would have an agreement pursuant to section 428(b) of this part which would have the responsibility of developing local sources of funds for student loans.

(20 U.S.C. 1087-2) Enacted June 23, 1972, P.L. 92-318, sec. 133(a), 86 Stat. 265, 269; amended April 21, 1976, P.L. 94-273, sec. 3(9), 90 Stat. 376; amended October 12, 1976, P.L. 94-482, sec. 127(a), 90 Stat. 2136-2141; amended June 15, 1977, P.L. 95-43, sec. 1(a)(38), 91 Stat. 217; amended October 3, 1980, P.L. 96-374, secs. 421, 1391, 94 Stat. 1427, 1503; amended August 13, 1981, P.L. 97-35, sec. 538, 95 Stat. 457; amended December 29, 1981, P.L. 97-115, sec. 18, 95 Stat. 1610; amended October 13, 1982, P.L. 97-301, sec. 14, 96 Stat. 1405; amended August 15, 1983, P.L. 98-79, secs. 2, 8, 97 Stat. 476, 483; amended April 7, 1986, P.L. 99-272, secs. 16017(b)(4), 16018(a)(3), 100 Stat. 347, 348; amended October 17, 1986, P.L. 99-498, sec. 402(a), 100 Stat. 1418; amended June 3, 1987, P.L. 100-50, sec. 10(dd), 101 Stat. 347.

PART C—WORK-STUDY PROGRAMS

PURPOSE; APPROPRIATIONS AUTHORIZED

SEC. 441. (a) PURPOSE.—The purpose of this part is to stimulate and promote the part-time employment of students who are enrolled as undergraduate, graduate, or professional students and who are in need of earnings from employment to pursue courses of study at eligible institutions.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $656,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(42 U.S.C. 2751) Enacted Aug. 20, 1964, P.L. 88-452, sec. 121, 78 Stat. 515; amended Nov. 8, 1965, P.L. 89-329, sec. 441(2), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90-575, secs. 131, 132, 133, 82 Stat. 1028-1029; amended Oct. 22, 1969, P.L. 91-95, sec. 5, 83 Stat. 143; amended June 23, 1972; P.L. 92-318, sec. 135 and sec. 135A, 86 Stat. 270; amended October 12, 1976, P.L. 94-482, sec. 128(a), 90 Stat. 2143; amended October 3, 1980, P.L. 96-374, sec. 431, 94 Stat. 1433; amended October 17, 1986, P.L. 99-498, sec. 403(a), 100 Stat. 1429.

ALLOCATION OF FUNDS

SEC. 442. (a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 441(b) for each fiscal year, the Secretary shall first allocate to each eligible institution for each succeeding fiscal year, an amount equal to 100 percent of the amount such institution received and used under this part for fiscal year 1985.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 90 percent of the amount received and used under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 441(b) for any fiscal year (after making the allocations required by subsection (a)), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as the amount the eligible institution receives for such fiscal year under subsection (a) bears to the amount all such institutions receive under such subsection (a).

(c) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 441(b) after making the allocations required by subsection (a), the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) the amount of that institution's need (as determined under subsection (d)), divided by (ii) the sum of the need of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 441(b) for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a).

(d) DETERMINATION OF INSTITUTION'S NEED.—(1) The amount of an institution's need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students; and

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary, for academic year 1988–1989 shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years, the Secretary shall—

(A) establish various income categories of graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category; and

(F) add the amounts determined under subparagraph (E) of this paragraph for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term "average cost of attendance" means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths in the Pell Grant family size offset for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(e) Reallocation of Excess Allocations.—(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall reallocate such excess in accordance with paragraph (2). Any sums reallocated under this subsection may be used in accordance with section 445(a)(2).

(2) The Secretary shall reallot not to exceed 25 percent of the amount available pursuant to paragraph (1) to eligible institutions for use in initiating, improving, and expanding programs of community service-learning conducted in accordance with section 447 of this part. The Secretary shall allocate the remainder of the amounts available pursuant to paragraph (1) to eligible institutions based upon the criteria described in section 447(c).

(f) Filing Deadlines.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(42 U.S.C. 2752) Enacted Aug. 20, 1964, P.L. 88-452, sec. 122, 78 Stat. 514; amended Nov. 8, 1965, P.L. 89-329, sec. 441(1), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90-575, secs. 131, 135, 82 Stat. 1028-1029; amended June 23, 1972, P.L. 92-318, sec. 135B, 86 Stat. 270, 271; amended October 3, 1980, P.L. 96-374, secs. 431, 432, 1391, 94 Stat. 1433, 1503; amended October 17, 1986, P.L. 99-498, sec. 403(a), 100 Stat. 1429; amended June 3, 1987, P.L. 100-50, sec. 11(a), 101 Stat. 348.

GRANTS FOR WORK-STUDY PROGRAMS

SEC. 443. (a) AGREEMENTS REQUIRED.—The Secretary is authorized to enter into agreements with institutions of higher education under which the Secretary will make grants to such institutions to assist in the operation of work-study programs as provided in this part.

(b) CONTENTS OF AGREEMENTS.—An agreement entered into pursuant to this section shall—

(1) provide for the operation by the institution of a program for the part-time employment of its students in work for the institution itself or work in the public interest for a Federal, State, or local public agency or private nonprofit organization under an arrangement between the institution and such agency or organization, and such work—

(A) will not result in the displacement of employed workers or impair existing contracts for services;

(B) will be governed by such conditions of employment as will be appropriate and reasonable in light of such factors as type of work performed, geographical region, and proficiency of the employee;

(C) does not involve the construction, operation, or maintenance of so much of any facility as is used or is to be used for sectarian instruction or as a place for religious worship; and

(D) will not pay any wage to students employed under this subpart that is less than the current Federal minimum wage as mandated by section 6(a) of the Fair Labor Standards Act of 1938;

(2) provide that funds granted an institution of higher education, pursuant to section 443, may be used only to make payments to students participating in work-study programs, except that—

(A) an institution may use not to exceed 10 percent of the funds granted to the institution in any fiscal year to carry out the work study program described in section 447 at the increased Federal share specified in paragraph (5)(B) of this subsection, and

(B) an institution may use a portion of the sums granted to it to meet administrative expenses in accordance with section 489 of this Act, may use a portion of the sums granted to it to meet the cost of a job location and development program in accordance with section 446 of this part, and may transfer funds in accordance with the provisions of section 488 of this Act;

(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with part F of this title, and who meet the requirements of section 484 will be assisted, except that, if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the institution's grant shall be made available to such students;

(4) provide that for a student employed in a work-study program under this part, at the time income derived from any employment (including non-work-study or both) is in excess of the determination of the amount of such student's need by more than $200, continued employment shall not be subsidized with funds appropriated under this part;

(5) provide that the Federal share of the compensation of students employed in the work study program in accordance with the agreement will not exceed 80 percent for academic years 1987–1988 and 1988–1989, 75 percent for academic year 1989–1990, and 70 percent for academic year 1990–1991 and succeeding academic years, except that—

(A) the Federal share may exceed such amounts of such compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part; and

(B) the Federal share of the compensation of the students employed in the work study for community service-learning programs described in section 447 from funds available under paragraph (2)(A) in accordance with the agreement will not exceed 90 percent of such compensation;

(6) include provisions to make employment under such work-study program reasonably available (to the extent of available funds) to all eligible students in the institution in need thereof, and to make equivalent employment offered or arranged by the institution reasonably available (to the extent of available funds) to all students in the institution who desire such employment;

(7) provide assurances that employment made available from funds under this part will, to the maximum extent practicable, complement and reinforce the educational program or vocational goals of each student receiving assistance under this part;

(8) provide assurances, in the case of each proprietary institution, that students attending the proprietary institution receiving assistance under this part who are employed by the institution may be employed in jobs—

(A) on campus only;

(B) that, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students; and

(C) furnishing student services, as determined by the Secretary pursuant to regulations, except that no student shall be employed in any position that would involve the solicitation of other potential students to enroll in the school; and

(9) include such other reasonable provisions as the Secretary shall deem necessary or appropriate to carry out the purpose of this part.

(c) Private Sector Employment Agreement.—As part of its agreement described in subsection (b), an institution of higher education may, at its option, enter into an additional agreement with the Secretary which shall—

(1) provide for the operation by the institution of a program of part-time employment of its students in work for a private for-profit organization under an arrangement between the institution and such organization that complies with the requirements of subparagraphs (A) through (D) of subsection (b)(1) and subsection (b)(3);

(2) provide that the institution will use not more than 25 percent of the funds made available to such institution under this part for any fiscal year for the operation of the program described in paragraph (1);

(3) provide that, notwithstanding subsection (b)(5), the Federal share of the compensation of students employed in such program will not exceed 60 percent for academic years 1987–1988 and 1988–1989, 55 percent for academic year 1989–1990, and 50 percent for academic year 1990–1991 and succeeding academic years, and that the non-Federal share of such compensation will be provided by the private for-profit organization in which the student is employed;

(4) provide that jobs under the work study program will be academically relevant; and

(5) provide that the for-profit organization will not use funds made available under this part to pay any employee who would otherwise be employed by the organization.

(42 U.S.C. 2753) Enacted Aug. 20, 1964, P.L. 88–452, sec. 123, 78 Stat. 514; amended Nov. 8, 1965, P.L. 89–329, sec. 441(3), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90–575, secs. 131, 133, 139, 82 Stat. 1028–1030; amended Oct. 12, 1976, P.L. 94–482, sec. 128(b), 90 Stat. 2143; amended Oct. 3, 1980, P.L. 96–374, sec. 434, 94 Stat. 1434; amended October 17, 1986, P.L. 99–498, sec. 402(a), 100 Stat. 1432; amended June 3, 1987, P.L. 100–50, sec. 11(b), (c), 101 Stat. 348.

SOURCES OF MATCHING FUNDS

SEC. 444. Nothing in this part shall be construed as restricting the source (other than this part) from which the institution may pay its share of the compensation of a student employed under a work-study program covered by an agreement under this part, and such share may be paid to such student in the form of services and equipment (including tuition, room, board, and books) furnished by such institution.

(20 U.S.C. 2754) Enacted October 17, 1986, P.L. 99–498, sec. 403(a), 100 Stat. 1435.

FLEXIBLE USE OF FUNDS

SEC. 445. (a) CARRY-OVER AUTHORITY.—(1) Of the sums granted to an eligible institution under this part for any fiscal year, 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out programs under this part.

(2) Any of the sums so granted to an institution for a fiscal year which are not needed by that institution to operate work-study programs during that fiscal year, and which it does not wish to use during the next fiscal year as authorized in the preceding sentence, shall remain available to the Secretary for making grants under section 443 to other institutions in the same State until the close of

the second fiscal year next succeeding the fiscal year for which such funds were appropriated.

(b) CARRY-BACK AUTHORITY.—Up to 10 percent of the sums the Secretary determines an eligible institution may receive from funds which have been appropriated for a fiscal year may be used by the Secretary to make grants under this part to such institution for expenditure during the fiscal year preceding the fiscal year for which the sums were appropriated.

(42 U.S.C. 2755) Enacted Aug. 20, 1964, P.L. 88-452, sec. 125, 78 Stat. 516; amended Nov. 8, 1966, P.L. 89-329, sec. 441(6), 79 Stat. 1250; amended Oct. 16, 1968, P.L. 90-575, sec. 131, 82 Stat. 1028; amended October 17, 1986, P.L. 99-498, sec. 403(a), 100 Stat. 1435.

JOB LOCATION AND DEVELOPMENT PROGRAMS

SEC. 446. (a) AGREEMENTS REQUIRED.—(1) The Secretary is authorized to enter into agreements with eligible institutions under which—

(A) such institution may use not more than 10 percent or $30,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions, locates and develops jobs for currently enrolled students; and

(B) such institution may use not more than 10 percent or $20,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions and through formal or informal consultation with local nonprofit, governmental, educational, and community-based organizations, locates and develops community services jobs for students eligible under this part.

(2) Jobs located and developed under subparagraph (A) or (B) of paragraph (1) shall be jobs which are suitable to the scheduling and other needs of such students and which, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students.

(b) CONTENTS OF AGREEMENTS.—Agreements under subsection (a) shall—

(1) provide that the Federal share of the cost of any program under this section will not exceed 80 percent of such cost;

(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution unless such jobs directly relate to the objectives described in subsection (a)(1)(B) of this section;

(3) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

(4) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

(5) provide satisfactory assurance that Federal funds used for the purpose of this section can realistically be expected to help

generate student wages exceeding, in the aggregate, the amount of such funds, and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

(6) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.

(c) Definition of Community Service.—For the purpose of this section, the term "community services" means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education (including tutorial services), housing and neighborhood improvement, rural development, and community improvement.

(42 U.S.C. 2756) Enacted Aug. 20, 1964, P.L. 88-452, sec. 126, 78 Stat. 516; amended Nov. 8, 1965, P.L. 89-329, sec. 441(1), 79 Stat. 1249; amended Oct. 16, 1968, P.L. 90-575, sec. 131, 82 Stat. 1028; amended June 28, 1975, P.L. 94-43, sec. 2, 89 Stat. 233; amended Oct. 3, 1980, P.L. 96-374, secs. 435(b), 1391, 94 Stat. 1435, 1503; amended October 17, 1986, P.L. 99-498, sec. 403(a), 100 Stat. 1435; amended June 3, 1987, P.L. 100-50, sec. 11(d), 101 Stat. 348.

WORK STUDY FOR COMMUNITY SERVICE-LEARNING ON BEHALF OF LOW-INCOME INDIVIDUALS AND FAMILIES

Sec. 447. (a) Purpose.—The purpose of this section is to encourage and enable institutions of higher education to develop work study programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals.

(b) Definitions.—For the purpose of this section—

(1) "community service-learning program" means a program of student work that—

(A) provides tangible community services for or on behalf of low-income individuals or families; and

(B) to the maximum extent practicable, provides participating students with work-learning opportunities which complement and reinforce their educational programs or vocational goals; and

(2) "community services" means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement.

(c) USE OF OTHER FUNDS TO CONDUCT PROGRAM.—Each institution participating under this part may use funds made available under the last sentence of section 489(a) to conduct that institution's program of community service-learning, including—

(1) development of mechanisms to assure the academic quality of the student experience,

(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

(3) collaboration with public and private nonprofit agencies in the planning, development, and administration of such programs.

(42 U.S.C. 2756a) Enacted June 23, 1972, P.L. 92-318, sec. 135F, 86 Stat. 271, 272; amended Oct. 12, 1976, sec. 128(d), 90 Stat. 2143, 2144; amended Oct. 3, 1980, P.L. 96-374, secs. 436, 1391, 94 Stat. 1436, 1503; amended October 17, 1986, P.L. 99-498, sec. 403(a), 100 Stat. 1436.

PART D—INCOME CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT

STATEMENT OF PURPOSE

SEC. 451. It is the purpose of this part to examine the feasibility of a direct loan program which uses the income contingent repayment method in order to increase the economic and full use of direct student loan funds.

(20 U.S.C. 1087a) Enacted October 17, 1986, P.L. 99-498, sec. 404, 100 Stat. 1437.

DEMONSTRATION PROJECT AUTHORIZED

SEC. 452. (a) GENERAL AUTHORITY.—The Secretary shall, from the amounts appropriated each fiscal year, carry out demonstration projects in accordance with the provisions of this part.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making contributions to student loan funds established pursuant to this part, there are authorized to be appropriated $5,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(c) ALLOTMENT; MAXIMUM NUMBER OF GRANTS.—(1) The Secretary shall allot the amounts appropriated in each fiscal year pursuant to subsection (b) among institutions of higher education which desire to participate in the pilot project authorized by this part and which have agreements with the Secretary under section 453.

(2) The Secretary may not enter into agreements with more than 10 institutions of higher education under this part.

(20 U.S.C. 1087b) Enacted October 17, 1986, P.L. 99-498, sec. 404, 100 Stat. 1437.

AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

SEC. 453. An agreement with an institution of higher education under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of Federal capital contributions from funds appropriated pursuant to section 452(b);

(3) provide for the deposit in such fund of a capital contribution by such institution equal to not less than one-ninth of the amount of the Federal capital contribution described in paragraph (2);

(4) provide for the deposit in such fund of collections of principal and interest on student loans made from deposited funds and any other earnings of such funds;

(5) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses; and

(C) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations;

(6) provide that repayment of the loans made from such student loan funds will be made in accordance with a repayment schedule, which will be adjusted annually on the basis of the total amount borrowed by the student and the income of the student borrower, together with such adjustments in the schedule as the Secretary and the institution determine will best carry out the purpose of this part, except that for the first 2 years of the repayment period the schedule may require a fixed payment plan;

(7) provide for the distribution of assets from student loan funds under this part in accordance with criteria prescribed by the Secretary, based upon the provisions of section 466; and

(8) provide for such other assurances and limitations as the Secretary may reasonably require.

(20 U.S.C. 1087c) Enacted October 17, 1986, P.L. 99-498, sec. 404, 100 Stat. 1438.

TERMS OF LOAN UNDER THE PILOT PROGRAM

SEC. 454. (a) CONDITIONS, LIMITATIONS, AND REQUIREMENTS.—(1) Loans from any student loan fund established pursuant to an agreement under section 453, to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2) The aggregate amount of all loans made by institutions of higher education from loan funds established pursuant to agreements under this part to any student may not exceed $17,500.

(3) The total amount of loans made by institutions of higher education from loan funds established pursuant to such agreement for any academic year may not exceed—

(A) $2,500 in the case of a student who is in the first or second academic year of a program of education leading to a bachelor's degree;

(B) $3,500 in the case of a student who is in the third such year; and

(C) $4,500 in the case of a student who is in the fourth and fifth such year.

(4)(A) The interest rate on loans under this part shall, at the discretion of the participating institution, be (i) computed in accordance with subparagraph (B) based on the interest rate computed for the calendar year in which the loan was made, and fixed over the life of the loan, or (ii) variable each calendar year based on the interest rate computed in accordance with subparagraph (B) for such calendar year.

(B) The interest rate applicable on such loans in accordance with subparagraph (A) shall be obtained by—

(i) computing the average of the bond equivalent rates of 91-day Treasury bills auctioned for the 3-month period ending September 30 preceding such year; and

(ii) by adding 3 percent to the resulting percent.

(5) Loans made from loan funds established pursuant to such agreements shall contain such agreements for deferments, interest accrual during deferments, and loan cancellation, as are consistent with the provisions of part E of this title, subject to such modifications as the Secretary may, by regulation, prescribe.

(b) AUTHORITY OF SECRETARY TO PRESCRIBE OTHER TERMS.—The Secretary may by regulation prescribe such other terms for loans made from loan funds established pursuant to such agreements as the Secretary determines will contribute to carrying out the provisions of this part.

(20 U.S.C. 1087d) Enacted October 17, 1986, P.L. 99-498, sec. 404, 100 Stat. 1438; amended June 3, 1987, P.L. 100-50, sec. 12, 101 Stat. 348.

FEASIBILITY STUDY

SEC. 455. (a) STUDY.—The Secretary shall, based upon the projects assisted under this part, conduct a study of the feasibility of extending the pilot project to a direct student loan fund program of general applicability beginning after September 30, 1990.

(b) REPORT.—The Secretary shall prepare and submit to the Congress a report on the feasibility study begun pursuant to subsection (a) not later than October 1, 1991, and October 1, 1995, together with such recommendations as the Secretary deems appropriate.

(20 U.S.C. 1087e) Enacted October 17, 1986, P.L. 99-498, sec. 404, 100 Stat. 1439.

PART E—DIRECT LOANS TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

APPROPRIATIONS AUTHORIZED

SEC. 461. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program of stimulating and assisting in the establishment and maintenance of funds at institutions of higher education for the making of low-interest loans to students in need thereof to pursue their courses of study in such institutions. Loans made under this part shall be known as "Perkins Loans".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated

$268,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) In addition there are hereby authorized to be appropriated such sums for fiscal year 1991 and each of the five succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1991, to continue or complete courses of study.

(c) USE OF APPROPRIATIONS.—Any sums appropriated pursuant to subsection (b) for any fiscal year shall be available for apportionment pursuant to section 462 and for payments of Federal capital contributions therefrom to institutions of higher education which have agreements with the Secretary under section 463. Such Federal capital contributions and all contributions from such institutions shall be used for the establishment, expansion, and maintenance of student loan funds.

(20 U.S.C. 1087aa) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 273; amended October 12, 1976, P.L. 94-482, secs. 130(a) and 130(b), 90 Stat. 2146; amended October 3, 1980, P.L. 96-374, secs. 441, 1391, 94 Stat. 1436, 1503; amended October 17, 1986, P.L. 99-498, sec. 405(a), 100 Stat. 1439.

ALLOCATION OF FUNDS

SEC. 462. (a) ALLOCATION BASED ON PREVIOUS ALLOCATION.—(1) From the amount appropriated pursuant to section 461(b) for each fiscal year, the Secretary shall first allocate to each eligible institution an amount equal to—

(A) 100 percent of the amount of Federal capital contribution such institution received under this part for fiscal year 1985, multiplied by

(B) the institution's default penalty, as determined under subsection (f),

except that if the institution which[1] has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

(2)(A) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 but is not a first or second time participant, an amount equal to the greater of—

(i) $5,000; or

(ii) 100 percent of the amount received and expended under this part for the first year it participated in the program.

(B) From the amount so appropriated, the Secretary shall next allocate to each eligible institution that began participation in the program under this part after fiscal year 1985 and is a first or second time participant, an amount equal to the greatest of—

(i) $5,000;

(ii) an amount equal to (I) 90 percent of the amount received and used under this part in the second preceding fiscal year by eligible institutions offering comparable programs of instruction, divided by (II) the number of students enrolled at such comparable institutions in such fiscal year, multiplied by (III) the number of students enrolled at the applicant institution in such fiscal year; or

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[1] So in original. The word "which" should be deleted.

(iii) 90 percent of the institution's allocation under this part for the preceding fiscal year.

(C) Notwithstanding subparagraphs (A) and (B) of this paragraph, the Secretary shall allocate to each eligible institution which—

(i) was a first-time participant in the program in fiscal year 1986 or any subsequent fiscal year, and

(ii) received a larger amount under this subsection in the second year of participation,

an amount equal to 90 percent of the amount it received under this subsection in its second year of participation.

(D) For any fiscal year after a fiscal year in which an institution receives an allocation under subparagraph (A), (B), or (C), the Secretary shall allocate to such institution an amount equal to the product of—

(i) the amount determined under subparagraph (A), (B), or (C), multiplied by

(ii) the institution's default penalty, as determined under subsection (f),

except that if the institution which[1] has a default rate in excess of the applicable maximum default rate under subsection (g), the institution may not receive an allocation under this paragraph.

(3)(A) If the amount appropriated for any fiscal year is less than the amount required to be allocated to all institutions under paragraph (1) of this subsection, then the amount of the allocation to each such institution shall be ratably reduced.

(B) If the amount appropriated for any fiscal year is more than the amount required to be allocated to all institutions under paragraph (1) but less than the amount required to be allocated to all institutions under paragraph (2), then—

(i) the Secretary shall allot the amount required to be allocated to all institutions under paragraph (1), and

(ii) the amount of the allocation to each institution under paragraph (2) shall be ratably reduced.

(C) If additional amounts are appropriated for any such fiscal year, such reduced amounts shall be increased on the same basis as they were reduced (until the amount allocated equals the amount required to be allocated under paragraphs (1) and (2) of this subsection).

(b) ALLOCATION OF EXCESS BASED ON PRO RATA SHARE.—From one-quarter of the remainder of the amount appropriated pursuant to section 461(b) for any fiscal year (after making the allocations required by subsection (a) of this section), the Secretary shall allocate to each eligible institution an amount which bears the same ratio to such one-quarter as—

(1) the amount the eligible institution receives for such fiscal year under subsection (a), bears to

(2) the amount all such institutions receive under such subsection (a).

(c) ALLOCATION OF EXCESS BASED ON SHARE OF EXCESS ELIGIBLE AMOUNTS.—(1) From three-quarters of the remainder of the amount appropriated pursuant to section 461(b) after making the allocations required by subsection (a) of this section, the Secretary shall allocate to each eligible institution which has an excess eligible amount an amount which bears the same ratio to such remainder as such excess eligible amount bears to the sum of the excess eligible amounts of all such eligible institutions (having such excess eligible amounts).

(2) For any eligible institution, the excess eligible amount is the amount, if any, by which—

(A)(i) that institution's eligible amount (as determined under paragraph (3)), divided by (ii) the sum of the eligible amounts of all institutions (as so determined), multiplied by (iii) the amount appropriated pursuant to section 461(b) for the fiscal year; exceeds

(B) the amount required to be allocated to that institution under subsection (a),

except that an eligible institution which has a default rate in excess of the applicable maximum default rate under subsection (g) may not receive an allocation under this paragraph.

(3) For any eligible institution, the eligible amount of that institution is equal to—

(A) the amount of the institution's self-help need, as determined under subsection (d); minus

(B) the institution's anticipated collections; multiplied by

(C) the institution's default penalty, as determined under subsection (f);

except that, if the institution has a default rate in excess of the applicable maximum default rate under subsection (g), the eligible amount of that institution is zero.

(d) DETERMINATION OF INSTITUTION'S SELF-HELP NEED.—(1) The amount of an institution's self-help need is equal to the sum of the self-help need of the institution's eligible undergraduate students and the self-help need of the institution's eligible graduate and professional students.

(2) To determine the self-help need of an institution's eligible undergraduate students, the Secretary shall—

(A) establish various income categories for dependent and independent undergraduate students;

(B) establish an expected family contribution for each income category of dependent and independent undergraduate students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) compute 25 percent of the average cost of attendance for all undergraduate students;

(D) multiply the number of eligible dependent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction shall not be less than zero;

(E) add the amounts determined under subparagraph (D) for each income category of dependent students;

(F) multiply the number of eligible independent students in each income category by the lesser of—

(i) 25 percent of the average cost of attendance for all undergraduate students determined under subparagraph (C); or

(ii) the average cost of attendance for all undergraduate students minus the expected family contribution determined under subparagraph (B) for that income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(G) add the amounts determined under subparagraph (F) for each income category of independent students; and

(H) add the amounts determined under subparagraphs (E) and (G).

(3) To determine the self-help need of an institution's eligible graduate and professional students, the Secretary, for academic year 1988–1989, shall use the procedures employed for academic year 1986–1987, and, for any subsequent academic years, the Secretary shall—

(A) establish various income categories for graduate and professional students;

(B) establish an expected family contribution for each income category of graduate and professional students, determined on the basis of the average expected family contribution (computed in accordance with part F of this title) of a representative sample within each income category for the second preceding fiscal year;

(C) determine the average cost of attendance for all graduate and professional students;

(D) subtract from the average cost of attendance for all graduate and professional students (determined under subparagraph (C)), the expected family contribution (determined under subparagraph (B)) for each income category, except that the amount computed by such subtraction for any income category shall not be less than zero;

(E) multiply the amounts determined under subparagraph (D) by the number of eligible students in each category;

(F) add the amounts determined under subparagraph (E) for each income category.

(4)(A) For purposes of paragraphs (2) and (3), the term "average cost of attendance" means the average of the attendance costs for undergraduate students and for graduate and professional students, which shall include (i) tuition and fees determined in accordance with subparagraph (B), (ii) standard living expenses determined in accordance with subparagraph (C), and (iii) books and supplies determined in accordance with subparagraph (D).

(B) The average undergraduate and graduate and professional tuition and fees described in subparagraph (A)(i) shall be computed on the basis of information reported by the institution to the Secretary, which shall include (i) total revenue received by the institution from undergraduate and graduate tuition and fees for the second year preceding the year for which it is applying for an allocation, and (ii) the institution's enrollment for such second preceding year.

(C) The standard living expense described in subparagraph (A)(ii) is equal to three-fourths in the Pell Grant family size offset for a single independent student.

(D) The allowance for books and supplies described in subparagraph (A)(iii) is equal to $450.

(e) ANTICIPATED COLLECTIONS.—An institution's anticipated collections are equal to the amount which was collected during the second year preceding the beginning of the award period, multiplied by 1.21.

(f) DEFAULT PENALTY.—For any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g), the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

(g) APPLICABLE MAXIMUM DEFAULT RATE.—(1) For award years 1988, 1989, and 1990, the applicable maximum default rate is 20 percent.

(2) For award year 1991 and subsequent years, the applicable maximum default rate is 15 percent.

(h) DEFINITION OF DEFAULT RATE.—(1) For the purpose of this section, the default rate is computed by dividing—

(A) the total principal amount of defaulted loans; by

(B) the total principal amount of loans made under this part, less the principal amount of all loans made to borrowers who are eligible for deferment under section 464(c)(2)(A)(i) or are in a grace period preceding repayment.

(2) For the purpose of paragraph (1)(A), the total principal amount of defaulted loans is equal to the total amount borrowed under loans that have reached repayment status and that are in default, minus—

(A) amounts that have been repaid or cancelled on such loans;

(B) loans discharged in bankruptcy;

(C) loans referred or assigned to the Secretary for collection under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a); and

(D) loans that are in default but on which the borrowers have made satisfactory arrangements to resume payment.

(3) A loan shall be considered to be in default—

(A) 120 days (in the case of a loan repayable monthly), or

(B) 180 days (in the case of a loan repayable quarterly),

after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note.

(i) FILING DEADLINES.—The Secretary shall, from time to time, set dates before which institutions must file applications for allocations under this part.

(j) REALLOCATION OF EXCESS ALLOCATIONS.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall, in accordance with regulations, reallocate such excess to other institutions.

(20 U.S.C. 1087bb) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 273, 274; amended October 3, 1980, P.L. 96-374, secs. 448(a), 1391, 94 Stat. 1443, 1503; amended October 17, 1986, P.L. 99-498, sec. 405(a), 100 Stat. 1440; amended June 3, 1987, P.L. 100-50, sec. 13(a)-(d), 101 Stat. 348.

AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION

SEC. 463. (a) CONTENTS OF AGREEMENTS.—An agreement with any institution of higher education for the payment of Federal capital contributions under this part shall—

(1) provide for the establishment and maintenance of a student loan fund for the purpose of this part;

(2) provide for the deposit in such fund of—

(A) Federal capital contributions from funds appropriated under section 461;

(B) a capital contribution by such institution in an amount equal to not less than one-ninth of the amount of the Federal capital contributions described in subparagraph (A);

(C) collections of principal and interest on student loans made from deposited funds;

(D) charges collected pursuant to regulations under section 464(c)(1)(H); and

(E) any other earnings of the funds;

(3) provide that such student loan fund shall be used only for—

(A) loans to students, in accordance with the provisions of this part;

(B) administrative expenses, as provided in subsection (b);

(C) capital distributions, as provided in section 466; and

(D) costs of litigation, and other collection costs agreed to by the Secretary in connection with the collection of a loan from the fund (and interest thereon) or a charge assessed pursuant to regulations under section 464(c)(1)(H);

(4) provide that where a note or written agreement evidencing a note has been in default for (A) 120 days, in the case of a loan which is repayable in monthly installments, or (B) 180 days, in the case of a loan which is repayable in less frequent installments, notice of such default shall be given to the Secretary in an annual report describing the total number of loans from such fund which are in such default;

(5) provide that where a note or written agreement evidencing a loan has been in default despite due diligence on the part of the institution in attempting collection thereon—

(A) if the institution has knowingly failed to maintain an acceptable collection record with respect to such loan, as determined by the Secretary in accordance with criteria established by regulation, the Secretary may—

(i) require the institution to assign such note or agreement to the Secretary, without recompense; and

(ii) apportion any sums collected on such a loan, less an amount not to exceed 30 percent of any sums collected to cover the Secretary's collection costs, among other institutions in accordance with section 462; or

(B) if the institution is not one described in subparagraph (A), the Secretary may—

(i) allow such institution to transfer its interest in such loan to the Secretary, for collection, and the Secretary may use any collections thereon (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) to make allocations to institutions of additional capital contributions in accordance with section 462; or

(ii) allow such institution to refer such note or agreement to the Secretary, without recompense, except that any sums collected on such a loan (less an amount not to exceed 30 percent of any such sums collected to cover the Secretary's collection costs) shall be repaid to such institution no later than 180 days after collection by the Secretary and treated as an additional capital contribution;

(6) provide that, if an institution of higher education determines not to service and collect student loans made available from funds under this part, the institution will assign, at the beginning of the repayment period, notes or evidence of obligations of student loans made from such funds to the Secretary and the Secretary shall apportion any sums collected on such notes or obligations (less an amount not to exceed 30 percent of any such sums collected to cover that Secretary's collection costs) among other institutions in accordance with section 462;

(7) provide that, notwithstanding any other provision of law, the Secretary will provide to the institution any information with respect to the names and addresses of borrowers or other relevant information which is available to the Secretary, from whatever source such information may be derived;

(8) provide assurances that the institution will comply with the provisions of section 463A;

(9) provide that the institution of higher education will make loans first to students with exceptional need; and

(10) include such other reasonable provisions as may be necessary to protect the United States from unreasonable risk of loss and as are agreed to by the Secretary and the institution.

(b) ADMINISTRATIVE EXPENSES.—An institution which has entered into an agreement under subsection (a) shall be entitled, for each fiscal year during which it makes student loans from a student loan fund established under such agreement, to a payment in lieu of reimbursement for its expenses in administering its student loan program under this part during such year. Such payment shall be made in accordance with section 489.

(c) COOPERATIVE AGREEMENTS WITH CREDIT BUREAU ORGANIZATIONS.—(1) For the purpose of promoting responsible repayment of loans made pursuant to this part, the Secretary shall enter into cooperative agreements with credit bureau organizations to provide for the exchange of information concerning student borrowers concerning whom the Secretary has received a referral pursuant to section 467.

(2) Each cooperative agreement made pursuant to paragraph (1) shall be made in accordance with the requirements of section 430A except that such agreement shall provide for the disclosure by the Secretary to such organizations, with respect to any loan for which the Secretary is responsible, of—

(A) the date of disbursement and the amount of any such loan;

(B) information concerning collection of any such loan, including information concerning the status of any defaulted loan; and

(C) the date of cancellation of the note upon completion of repayment by the borrower of any such loan.

(3) Notwithstanding paragraphs (4) and (6) of subsection (a) of section 605 of the Fair Credit Reporting Act (15 U.S.C. 1681c (a)(4), (a)(6)), a consumer reporting agency may make a report containing information received from the Secretary regarding the status of a borrower's account on a loan made under this part until—

(A) 7 years from the date on which the Secretary accepted an assignment or referral of a loan, or

(B) 7 years from the date the Secretary first reports the account to a consumer reporting agency, if that account has not been previously reported by any other holder of the note.

(20 U.S.C. 1087cc) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 274, 275; amended October 12, 1976, P.L. 94-482, sec. 130(c), 90 Stat. 2146, 2147; amended October 3, 1980, P.L. 96-374, secs. 442(b) (1), (2), (3), 445(a), (b)(1), 447(a), 448(b), 1391, 94 Stat. 1439, 1440, 1442, 1443, 1503; amended April 7, 1986, P.L. 99-272, secs. 16025, 16026, 100 Stat. 352, 353; amended October 17, 1986, P.L. 99-498, sec. 405(a), 100 Stat. 1444; amended June 3, 1987, P.L. 100-50, sec. 13(e)-(f), 101 Stat. 349.

STUDENT LOAN INFORMATION BY ELIGIBLE INSTITUTIONS

SEC. 463A. (a) DISCLOSURE REQUIRED PRIOR TO DISBURSEMENT.—Each institution of higher education, in order to carry out the provisions of section 463(a)(8), shall, at or prior to the time such institution makes a loan to a student borrower which is made under this part, provide thorough and adequate loan information on such loan to the student borrower. Any disclosure required by this subsection may be made by an institution of higher education as part of the written application material provided to the borrower, or as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the principal amount of the loan;

(3) the amount of any charges collected by the institution at or prior to the disbursal of the loan and whether such charges are deducted from the proceeds of the loan or paid separately by the borrower;

(4) the stated interest rate on the loan;

(5) the yearly and cumulative maximum amounts that may be borrowed;

(6) an explanation of when repayment of the loan will be required and when the borrower will be obligated to pay interest that accrues on the loan;

(7) a statement as to the minimum and maximum repayment term which the institution may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary or institutions to collect on a loan;

(8) a statement of the total cumulative balance, including the loan applied for, owed by the student to that lender, and an estimate of the projected monthly payment, given such cumulative balance;

(9) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(10) a statement that the borrower has the right to prepay all or part of the loan, at any time, without penalty, a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 2172);

(11) a definition of default and the consequences to the borrower if the borrower defaults, including a statement that the default may be reported to a credit bureau or credit reporting agency;

(12) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

(13) an explanation of any cost the borrower may incur in the making or collection of the loan.

(b) DISCLOSURE REQUIRED PRIOR TO REPAYMENT.—Each institution of higher education shall enter into an agreement with the Secretary under which the institution will, prior to the start of the repayment period of the student borrower on loans made under this part, disclose to the student borrower the information required under this subsection. Any disclosure required by this subsection may be made by an institution of higher education either in a promissory note evidencing the loan or loans or in a written statement provided to the borrower. The disclosures shall include—

(1) the name of the institution of higher education, and the address to which communications and payments should be sent;

(2) the scheduled date upon which the repayment period is to begin;

(3) the estimated balance owed by the borrower on the loan or loans covered by the disclosure as of the scheduled date on which the repayment period is to begin (including, if applicable, the estimated amount of interest to be capitalized);

(4) the stated interest rate on the loan or loans, or the combined interest rate of loans with different stated interest rates;

(5) the nature of any fees which may accrue or be charged to the borrower during the repayment period;

(6) the repayment schedule for all loans covered by the disclosure including the date the first installment is due, and the number, amount, and frequency of required payments;

(7) an explanation of any special options the borrower may have for loan consolidation or other refinancing of the loan;

(8) the projected total of interest charges which the borrower will pay on the loan or loans, assuming that the borrower makes payments exactly in accordance with the repayment schedule; and

(9) a statement that the borrower has the right to prepay all or part of the loan or loans covered by the disclosure at any time without penalty.

(c) COSTS AND EFFECTS OF DISCLOSURES.—Such information shall be available without cost to the borrower. The failure of an eligible institution to provide information as required by this section shall not (1) relieve a borrower of the obligation to repay a loan in accordance with its terms, (2) provide a basis for a claim for civil damages, or (3) be deemed to abrogate the obligation of the Secretary to make payments with respect to such loan.

(20 U.S.C. 1087cc-1) Enacted October 3, 1980, P.L. 96-374, sec. 447(b), 94 Stat. 1443; amended October 13, 1982, P.L. 97-301, sec. 13(b), 96 Stat. 1404; amended August 15, 1983, P.L. 98-79, sec. 3(b), 97 Stat. 478; amended April 7, 1986, P.L. 99-272, sec. 16027, 100 Stat. 353; amended October 17, 1986, P.L. 99-498, sec. 405(a), 100 Stat. 1446; amended June 3, 1987, P.L. 100-50, sec. 13(g)-(h), 101 Stat. 349.

TERMS OF LOANS

SEC. 464. (a) TERMS AND CONDITIONS.—(1) Loans from any student loan fund established pursuant to an agreement under section 463 to any student by any institution shall, subject to such conditions, limitations, and requirements as the Secretary shall prescribe by regulation, be made on such terms and conditions as the institution may determine.

(2) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

(A) $18,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

(B) $9,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

(C) $4,500 in the case of any other student.

(3) Regulations of the Secretary under paragraph (1) shall be designed to prevent the impairment of the capital student loan funds to the maximum extent practicable and with a view toward the objective of enabling the student to complete his course of study.

(b) DEMONSTRATION OF NEED AND ELIGIBILITY REQUIRED.—(1) A loan from a student loan fund assisted under this part may be made only to a student who demonstrates financial need in accordance with part F of this title and who meets the requirements of section 484.

(2) If the institution's Federal capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students attending the institution less than full time, a reasonable proportion of the loans under this part shall be made available to such students.

(c) CONTENTS OF LOAN AGREEMENT.—(1) Any agreement between an institution and a student for a loan from a student loan fund assisted under this part—

(A) shall be evidenced by note or other written instrument which, except as provided in paragraph (2), provides for repayment of the principal amount of the loan, together with interest thereon, in equal installments (or, if the borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the institution, over a period beginning nine months after the date on which the student ceases to carry, at an institution of higher education or a comparable institution outside the United States approved for this purpose by the Secretary, at least one-half the normal full-time academic workload, and ending 10 years and 9 months after such date except that such period may begin earlier than 9 months after such date upon the request of the borrower;

(B) shall include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the borrower;

(C)(i) may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

(ii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;

(D) shall provide that the loan shall bear interest, on the unpaid balance of the loan, at the rate of (i) 3 percent per year, (ii) 4 percent per year in the case of any loan made on or after July 1, 1981, or (iii) 5 percent per year in the case of any loan made on or after October 1, 1981, except that no interest shall accrue (I) prior to the beginning date of repayment determined under subparagraph (A)(i), or (II) during any period in which repayment is suspended by reason of paragraph (2);

(E) unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation, shall provide that the loan shall be made without security and without endorsement;

(F) shall provide that the liability to repay the loan shall be canceled upon the death of the borrower, or if he becomes permanently and totally disabled as determined in accordance with regulations of the Secretary;

(G) shall provide that no note or evidence of obligation may be assigned by the lender, except upon the transfer of the borrower to another institution participating under this part (or, if not so participating, is eligible to do so and is approved by the Secretary for such purpose), to such institution, and except as necessary to carry out section 463(a)(6);

(H) pursuant to regulations of the Secretary, shall provide for an assessment of a charge with respect to the loan for failure of the borrower to pay all or part of an installment when due, which shall include the expenses reasonably incurred in attempting collection of the loan, to the extent permitted by the Secretary, except that no charge imposed under this subparagraph shall exceed 20 percent of the amount of the monthly payment of the borrower; and

(I) shall contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations under section 463(c).

(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period in which the borrower—

(i) is carrying at least one-half the normal full-time academic workload at an institution of higher education or at a comparable institution outside the United States which is approved for this purpose by the Secretary;

(ii) is a member of the Armed Forces of the United States, is an active duty member of the National Oceanic and Atmospheric Administration Corps, or is an officer in the Commissioned Corps of the Public Health Service;

(iii) is in service as a volunteer under the Peace Corps Act;

(iv) is in service as a volunteer under the Domestic Volunteer[1] Act of 1973;

(v) is in service, comparable to the service referred to in clauses (iii) and (iv), as a full-time volunteer for an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954;

(vi) is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers postgraduate training;

(vii) is temporarily totally disabled (as defined in section 435(g)), as established by sworn affidavit of a qualified physician, or during which the borrower is unable to secure employment by reason of the care required by a dependent who is so disabled;

(viii) is on parental leave, as defined in section 435(h); or

(ix) is a mother with preschool age children who is just entering or reentering the workforce and who is compensated at a rate not to exceed $1 in excess of the rate prescribed by section 6 of the Fair Labor Standards Act of 1938.

The period during which repayment may be deferred by reason of clause (ii), (iii), (iv), (v), or (vii) shall not exceed 3 years. The period during which repayment may be deferred by reason of clause (vi) shall not exceed 2 years. The period during which repayment may be deferred by reason of clause (viii) shall not exceed 6 months. The period during which the repayment may be deferred by reason of clause (ix) shall not exceed 12 months.

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[1] So in original. The word "Service" is missing.

(B) Any period during which repayment is deferred under subparagraph (A) shall not be included in computing the 10-year maximum period provided for in subparagraph (A) of paragraph (1).

(C) No repayment of principal of, or interest on, any loan for any period of study, service, or disability described in subparagraph (A) or any combination thereof shall begin until 6 months after the completion of such period of study, service, disability, or combination thereof.

(3)(A) The Secretary is authorized, when good cause is shown, to extend, in accordance with regulations, the 10-year maximum repayment period provided for in subparagraph (A) of paragraph (1) with respect to individual loans.

(B) Pursuant to uniform criteria established by the Secretary, the repayment period for any student borrower who during the repayment period is a low-income individual may be extended for a period not to exceed 10 years and the repayment schedule may be adjusted to reflect the income of that individual.

(4) The institution may elect—

(A) to add the amount of any charge imposed under paragraph (1)(H) to the principal amount of the loan as of the first day after the day on which the installment was due and to notify the borrower of the assessment of the charge; or

(B) to make the amount of the charge payable to the institution not later than the due date of the next installment.

(d) AVAILABILITY OF LOAN FUND TO ALL ELIGIBLE STUDENTS.—An agreement under this part for payment of Federal capital contributions shall include provisions designed to make loans from the student loan fund established pursuant to such agreement reasonably available (to the extent of the available funds in such fund) to all eligible students in such institutions in need thereof.

(20 U.S.C. 1087dd) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 275, 277; amended October 12, 1976, P.L. 94-482, sec. 130(d), 130(e), 130(f), 130 (g)(1) and (g)(2), 90 Stat. 2147; amended June 15, 1977, P.L. 95-43, secs. 1(a)(39), 91 Stat. 217; amended October 3, 1980, P.L. 96-374, secs. 442(b) (4), (5), 443, 444, 445(b)(2), 446, 448(c), 1391, 94 Stat. 1440, 1441, 1442, 1443, 1503; amended August 13, 1981, P.L. 97-35, sec. 539, 95 Stat. 458; amended April 7, 1986, P.L. 99-272, sec. 16028, 100 Stat. 353; amended October 17, 1986, P.L. 99-498, sec. 405(a), 100 Stat. 1448; amended June 3, 1987, P.L. 100-50, sec. 13(i), 101 Stat. 349.

CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

SEC. 465. (a) CANCELLATION OF PERCENTAGE OF DEBT BASED ON YEARS OF QUALIFYING SERVICE.—(1) The percent specified in paragraph (3) of this subsection of the total amount of any loan made after June 30, 1972, from a student loan fund assisted under this part shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

(2) Loans shall be canceled under paragraph (1) for service—

(A) as a full-time teacher for service in an academic year in a public or other nonprofit private elementary or secondary school which is in the school district of a local educational agency which is eligible in such year for assistance pursuant to chapter 1 of the Education Consolidation and Improvement Act of 1981, and which for the purpose of this paragraph and for that year has been determined by the Secretary (pursuant to regulations and after consultation with the State educational agency of the State in which the school is located) to be a school in which the enrollment of children counted under section 111(c) of the Elementary and Secondary Education Act of 1965 exceeds 30 percent of the total enrollment of that school and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such chapter 1;

(B) as a full-time staff member in a preschool program carried on under the Head Start Act which is operated for a period which is comparable to a full school year in the locality if the salary of such staff member is not more than the salary of a comparable employee of the local educational agency;

(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system;

(D) as a member of the Armed Forces of the United States, for services that qualifies for special pay under section 310 of title 37, United States Code, as an area of hostilities; or

(E) as a volunteer under the Peace Corps Act or a volunteer under the Domestic Volunteer Service Act of 1973.

For the purpose of this paragraph, the term "handicapped children" has the meaning set forth in section 602(1) of the Education of the Handicapped Act.

(3)(A) The percent of a loan which shall be canceled under paragraph (1) of this subsection is—

(i) in the case of service described in subparagraph (A) or (C) of paragraph (2), at the rate of 15 percent for the first or second year of such service, 20 percent for the third or fourth year of such service, and 30 percent for the fifth year of such service;

(ii) in the case of service described in subparagraph (B) of paragraph (2), at the rate of 15 percent for each year of such service;

(iii) in the case of service described in subparagraph (D) of paragraph (2), not to exceed a total of 50 percent of such loan at the rate of 12½ percent for each year of qualifying service; or

(iv) in the case of service described in subparagraph (E) of paragraph (2) at the rate of 15 percent for the first or second year of such service and 20 percent for the third or fourth year of such service.

(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

(C) Nothing in this subsection shall be construed to authorize refunding of any repayment of a loan.

(4) For the purpose of this subsection, the term "year" where applied to service as a teacher means academic year as defined by the Secretary.

(5) The amount of a loan, and interest on a loan, which is canceled under this section shall not be considered income for purposes of the Internal Revenue Code of 1954.

(b) Reimbursement for Cancellation.—The Secretary shall pay to each institution for each fiscal year an amount equal to the aggregate of the amounts of loans from its student loan fund which are canceled pursuant to this section for such year, minus an amount equal to the aggregate of the amounts of any such loans so canceled which were made from Federal capital contributions to its student loan fund provided by the Secretary under section 468. None of the funds appropriated pursuant to section 461(b) shall be available for payments pursuant to this subsection.

(20 U.S.C. 1087ee) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 277, 278; amended Nov. 1, 1978, P.L. 95-561, sec. 1323, 92 Stat. 2363; amended October 3, 1980, P.L. 96-374, secs. 442(b)(6), 448 (d), (e), 1391, 94 Stat. 1440, 1443, 1503; amended October 17, 1986, P.L. 99-498, sec. 405(a), 100 Stat. 1451; amended June 3, 1987, P.L. 100-50, sec. 13(j), 101 Stat. 349.

DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS

Sec. 466. (a) In General.—After September 30, 1996, and not later than March 31, 1997, there shall be a capital distribution of the balance of the student loan fund established under this part by each institution of higher education as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the balance in such fund at the close of September 30, 1996, as the total amount of the Federal capital contributions to such fund by the Secretary under this part bears to the sum of such Federal contributions and the institution's capital contributions to such fund.

(2) The remainder of such balance shall be paid to the institution.

(b) Distribution of Late Collections.—After March 31, 1997, each institution with which the Secretary has made an agreement under this part, shall pay to the Secretary the same proportionate share of amounts received by this institution after September 30, 1996, in payment of principal and interest on student loans made from the student loan fund established pursuant to such agreement (which amount shall be determined after deduction of any costs of litigation incurred in collection of the principal or interest on loans from the fund and not already reimbursed from the fund or from such payments of principal or interest), as was determined for the Secretary under subsection (a).

(c) Distribution of Excess Capital.—Upon a finding by the institution or the Secretary prior to October 1, 1997, that the liquid assets of a student loan fund established pursuant to an agreement under this part exceed the amount required for loans or otherwise in the foreseeable future, and upon notice to such institution or to the Secretary, as the case may be, there shall be, subject to such limitations as may be included in regulations of the Secretary or in such agreement, a capital distribution from such fund. Such capital distribution shall be made as follows:

(1) The Secretary shall first be paid an amount which bears the same ratio to the total to be distributed as the Federal capital contributions by the Secretary to the student loan fund prior to such distribution bear to the sum of such Federal capital contributions and the capital contributions to the fund made by the institution.

(2) The remainder of the capital distribution shall be paid to the institution.

(20 U.S.C. 1087ff) Enacted June 23, 1972, P.L. 92-318, sec. 137(b), 86 Stat. 278, 279; amended October 12, 1976, P.L. 94-482, sec. 130(h), 90 Stat. 2147; amended October 3, 1980, P.L. 96-374, secs. 442(c), 1391, 94 Stat. 1440, 1503; amended October 17, 1986, P.L. 99-498, sec. 405(a), 100 Stat. 1453.

COLLECTION OF DEFAULTED LOANS

SEC. 467. (a) AUTHORITY OF SECRETARY TO COLLECT REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—With respect to any loan—

(1) which was made under this part, and

(2) which is referred, transferred, or assigned to the Secretary by an institution with an agreement under section 463(a),

the Secretary is authorized to attempt to collect such loan by any means authorized by law for collecting claims of the United States (including referral to the Attorney General for litigation) and under such terms and conditions as the Secretary may prescribe, including reimbursement for expenses reasonably incurred in attempting such collection.

(b) COLLECTION OF REFERRED, TRANSFERRED, OR ASSIGNED LOANS.—The Secretary shall continue to attempt to collect any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a) until all appropriate collection efforts, as determined by the Secretary, have been expended.

(20 U.S.C. 1087gg) Enacted August 13, 1979, P.L. 96-49, sec. 5(d)(3), 93 Stat. 352; amended October 3, 1980, P.L. 96-374, secs. 445(c), 1391, 94 Stat. 1442, 1503; amended April 7, 1986, P.L. 99-272, sec. 16029, 100 Stat. 354; amended October 17, 1986, P.L. 99-498, sec. 405(a), 100 Stat. 1453.

GENERAL AUTHORITY OF SECRETARY

SEC. 468. In carrying out the provisions of this part, the Secretary is authorized—

(1) to consent to modification, with respect to rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision of any note evidencing a loan which has been made under this part;

(2) to enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right of redemption;

(3) to conduct litigation in accordance with the provisions of section 432(a)(2); and

(4) to enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this part.

(20 U.S.C. 1087hh) Enacted October 3, 1980, P.L. 96-374, sec. 442(a), 94 Stat. 1437; amended October 17, 1986, P.L. 99-498, sec. 405(a), 100 Stat. 1454.

PART F—NEED ANALYSIS

AMOUNT OF NEED

SEC. 471. Except as otherwise provided therein, the amount of need of any student for financial assistance under this title (except subparts 1 and 3 of part A) is equal to the cost of attendance of such student minus the expected family contribution for such student.

(20 U.S.C. 1087kk) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1454.

COST OF ATTENDANCE

SEC. 472. For the purpose of this title (except for subpart 1 of part A and subject to section 478), the term "cost of attendance" means—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (7));

(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

(6) for a student enrolled in an academic program which normally includes a formal program of study abroad, reasonable costs associated with such study (as determined by the institution);

(7) for a student with one or more dependents, an allowance (as determined by the institution) based on the expenses reasonably incurred for dependent care based on the number and age of such dependents;

(8) for a handicapped student, an allowance (as determined by the institution) for those expenses related to his or her handicap, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies; and

(9) for a student receiving all or part of his or her instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs, but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment.

(20 U.S.C. 1087ll) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1454.

FAMILY CONTRIBUTION

SEC. 473. For the purpose of this title, except subparts 1 and 3 of part A, the term "family contribution" with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

(20 U.S.C. 1087mm) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1455.

DATA ELEMENTS USED IN DETERMINING EXPECTED FAMILY CONTRIBUTION

SEC. 474. The following data elements are considered in determining the expected family contribution:

(1) the available income of (A) the student and his or her spouse, or (B) the student (and spouse) and the student's parents, in the case of a dependent student;

(2) the number of dependents in the family of the student;

(3) the number of dependents in the family of the student who are enrolled in, on at least a half-time basis, a program of postsecondary education and for whom the family may reasonably be expected to contribute to their postsecondary education;

(4) the net assets of (A) the student and his or her spouse, and (B) the student (and spouse) and the student's parents, in the case of a dependent student;

(5) the marital status of the student;

(6) any unusual medical and dental expenses of (A) the student and the student's parents, in the case of a dependent student, or (B) the student and his or her dependents, in the case of an independent student;

(7) the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid (A) in the case of a dependent student, by the student's parents for such dependent children, or (B) in the case of an independent student with dependents, by the student or his or her spouse for such dependent children who are so enrolled; and

(8) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when both the student and his or her spouse are employed or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1954.

(20 U.S.C. 1087nn) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1456.

FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS

SEC. 475. (a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each dependent student the expected family contribution is equal to the sum of—

(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b));

(2) the student (and spouse) contribution from available income (determined in accordance with subsection (g)); and

(3) the student (and spouse) income supplemental amount from assets (determined in accordance with subsection (h)).

(b) PARENTS' CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—The parents' contribution from adjusted available income is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the parents' available income (determined in accordance with subsection (c)); and

(B) the parents' income supplemental amount from assets (determined in accordance with subsection (d));

(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e); and

(3) dividing the assessment resulting under paragraph (2) by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

(c) PARENTS' AVAILABLE INCOME.—

(1) IN GENERAL.—The parents' available income is determined by deducting from total income (as defined in section 480)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) a standard maintenance allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5);

(F) a medical-dental expense allowance, determined in accordance with paragraph (6); and

(G) an educational expense allowance, determined in accordance with paragraph (7).

(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13

(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) STANDARD MAINTENANCE ALLOWANCE.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

Standard Maintenance Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional substract:[1]
2	$8,380	$6,950				
3	10,440	9,010	$7,580			
4	12,890	11,460	10,030	$8,600		
5	15,210	13,780	12,350	10,920	$8,490	
6	17,790	16,360	14,930	13,500	12,070	1,430
For each additional add:	2,010	2,010	2,010	2,010	2,010	

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[1] So in original. Should be "subtract".

(5) Employment expense allowance.—The employment expense allowance is determined as follows:

(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,100 or 35 percent of the earned income of the parent with the lesser earned income.

(B) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,100 or 35 percent of his or her earned income.

For any award year after award year 1987-1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the amount and percent of the Bureau of Labor Standards budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

(6) Medical-dental expense allowance.—The medical-dental expense allowance is equal to the amount by which the sum of unreimbursed medical and dental expenses, including medical insurance premiums, exceeds 5 percent of the total income of the parents.

(7) Educational expense allowance.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student's parents for each dependent child, other than the student, enrolled in an elementary or secondary school, not to exceed for each such child the national average per pupil instructional cost as published by the Center for Educational Statistics using the most recent available data.

(d) Parents' Income Supplemental Amount From Assets.—

(1) In general.—The parents' income supplemental amount from assets is equal to—

(A) the parental net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)).

(2) Parental net worth.—The parental net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, including the net value of the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act); and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478):

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is–	Then the adjusted net worth is:
Less than $1	$0
$1–$60,000	40 percent of NW
$60,001–$180,000	$24,000 plus 50 percent of NW over $60,000
$180,001–$300,000	$84,000 plus 60 percent of NW over $180,000
$300,001 or more	$156,000 plus 100 percent of NW over $300,000

(3) Asset protection allowance.—The asset protection allowance is calculated according to the following table:

Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are	
	two parents	one parent
	then the asset protection allowance is—	
25 or less	$0	$0
26	1,900	1,500
27	3,900	3,000
28	5,800	4,500
29	7,800	6,100
30	9,700	7,600
31	11,700	9,100
32	13,600	10,600
33	15,600	12,100
34	17,500	13,600
35	19,500	15,100
36	21,400	16,600
37	23,400	18,200
38	25,300	19,700
39	27,300	21,200
40	29,200	22,700
41	30,000	23,200
42	30,800	23,800

Asset Protection Allowances for Families and Students—Continued

If the age of the oldest parent is—	And there are	
	two parents	one parent
43	31,600	24,200
44	32,500	24,800
45	33,300	25,400
46	34,200	26,100
47	35,200	26,700
48	36,100	27,200
49	37,300	27,900
50	38,300	28,800
51	39,600	29,500
52	40,900	30,300
53	42,000	31,000
54	43,400	32,000
55	44,800	32,800
56	46,300	33,800
57	48,100	34,600
58	49,700	35,700
59	51,600	36,800
60	53,300	37,900
61	55,300	39,000
62	57,400	40,200
63	59,600	41,400
64	61,800	42,600
65 or more	64,100	44,100

(4) ASSET CONVERSION RATE.—The asset conversion rate is determined as follows:

(A) if the parental net worth (determined in accordance with paragraph (2)) minus the asset protection allowance (determined in accordance with paragraph (3)) is equal to or greater than zero, the conversion rate is 12 percent;

(B) if such parental net worth minus such asset protection allowance is less than zero and the parents' contribution from available income (determined in accordance with subsection (c)) is greater than $15,999, the conversion rate is zero percent;

(C) if such parental net worth minus such asset protection allowance is less than zero and such parents' available income is equal to or greater than zero but less than $16,000, the conversion rate (rounded to 3 decimal places) is equal to 6 percent multiplied by a fraction—

(i) the numerator of which is equal to $16,000 minus such parents' available income; and

(ii) the denominator of which is $16,000; and

(D) if such parental net worth minus such asset protection allowance is less than zero and such parents' available income is less than zero, the conversion rate is 6 percent.

(e) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (b)(1) and hereafter in this subsection referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section 479[1]):

Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than –$3,409	–$750
–$3,409 to $7,500	22% of AAI
$7,501 to $9,400	$1,650 + 25% of AAI over $7,500
$9,401 to $11,300	$2,125 + 29% of AAI over $9,400
$11,301 to $13,200	$2,676 + 34% of AAI over $11,300
$13,201 to $15,100	$3,322 + 40% of AAI over $13,200
$15,101 or more	$4,082 + 47% of AAI over $15,100

(f) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, REMARRIAGE, OR DEATH.—

(1) DIVORCED OR SEPARATED PARENTS.—Income for a student whose parents are divorced or separated is determined under the following procedures:

(A) Include only the income of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(B) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(C) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(2) DEATH OF A PARENT.—Income in the case of the death of any parent is determined as follows:

(A) If either of the parents have died, the student shall include only the income of the surviving parent.

(B) If both parents have died, the student shall not report any parental income.

(3) REMARRIED PARENTS.—Income in the case of a parent whose income is taken into account under paragraph (1) of this subsection, or a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, is determined as follows: The income of that parent's spouse shall be included in determining the student's annual adjusted family income if—

(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

(B) the student is not an independent student.

(g) STUDENT CONTRIBUTION FROM AVAILABLE INCOME.—

(1) IN GENERAL.—The student (and spouse) contribution from available income is equal to the greater of—

(A) a mandatory self-help amount of $700 for a first-year undergraduate student;

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[1] So in original. Probably should refer to section 478.

(B) a mandatory self-help amount of $900 for any other student; or

(C) an amount equal to 70 percent of the student's total income (determined in accordance with section 480) minus the adjustment to student (and spouse) income (determined in accordance with paragraph (2)).

(2) ADJUSTMENT TO STUDENT (AND SPOUSE) INCOME.—The adjustment to student (and spouse) income is equal to the sum of—

(A) estimated Federal income taxes of the student (and spouse);

(B) an allowance for State and local income taxes (determined in accordance with paragraph (3)); and

(C) an allowance for social security taxes determined in accordance with paragraph (4).

(3) ALLOWANCE FOR STATE AND LOCAL INCOME TAXES.—The allowance for State and local income taxes is equal to an amount determined by multiplying total taxable income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Local Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8

(4) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student (and spouse) multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(h) STUDENT (AND SPOUSE) INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—The student (and spouse) supplemental income from assets is determined by calculating the net assets of the student (and spouse) and multiplying the amount by 35 percent, except that in the case of a student who is a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act), the net value of a principal place of residence shall be considered to be zero.

(i) ADJUSTMENTS FOR ENROLLMENT PERIODS OTHER THAN 9 MONTHS.—For periods of enrollment other than nine months, the parents' contribution from adjusted available income is determined as follows:

(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income (determined in accordance with subsection (b)) is divided by 9 and the result multiplied by the number of months enrolled.

(2) For periods of enrollment greater than 9 months—

(A) the parents' adjusted available income (determined in accordance with subsection (b)(1)) is increased by the difference between the standard maintenance allowance (determined in accordance with subsection (c)(4)) for a family of four and a family of five, each with one child in college;

(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) and adjusted according to subsection (b)(3) to determine a revised parents' contribution from adjusted available income;

(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

(20 U.S.C. 1087oo) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1456; amended June 3, 1987, P.L. 100-50, sec. 14(1)-(12), 101 Stat. 349.

FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS

SEC. 476. (a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student without dependents (including a spouse), the expected family contribution is equal to the sum of—

(1) the student's contribution from income (determined in accordance with subsection (b)); and

(2) the student's income supplemental amount from assets (determined in accordance with subsection (c)).

(b) STUDENT'S CONTRIBUTION FROM INCOME.—

(1) IN GENERAL.—The student's contribution from income is determined by—

(A) adding the student's adjusted gross income and any income earned from work but not reported on a Federal income tax return, and subtracting excludable income (as defined in section 480);

(B) computing the student's available taxable income by deducting from the amount determined under subparagraph (A)—

(i) Federal income taxes;

(ii) an allowance for State and local income taxes, determined in accordance with paragraph (2);

(iii) the allowance for social security taxes, determined in accordance with paragraph (3); and

(iv) a maintenance allowance for periods of non-enrollment not to exceed $600 per month;

(C) assessing such available taxable income in accordance with paragraph (4); and

(D) adding to the assessment resulting under subparagraph (C) the amount of the untaxed income and benefits of the student (determined in accordance with section 480(c) plus the amount of veterans' benefits paid during the award period under chapters 32, 34, and 35 of title 28,[1] United States Code),

except that the student's contribution from income shall not be less than $1,200.

(2) Allowance for state and local income taxes.—The allowance for State and local income taxes is equal to an amount determined by multiplying total taxable income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Local Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8

(3) Allowance for social security taxes.—The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) Assessment of available taxable income.—The student's available taxable income (determined in accordance with paragraph (1)(A) of this subsection) is assessed as follows:

(A) if such available taxable income is equal to or greater than $0 but less than or equal to $8,600, then the assessment is equal to 70 percent of such available taxable income; and

(B) if such available taxable income is greater than $8,600, then the assessment is equal to $6,020 plus 90 percent of such available taxable income in excess of $8,600.

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[1] So in original. Should be "38".

(c) STUDENT'S INCOME SUPPLEMENTAL AMOUNT FROM ASSETS.—

(1) IN GENERAL.—The student's income supplemental amount from assets is equal to—

(A) the student's net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4));

except that the student's income supplemental amount from assets shall not be less than zero.

(2) STUDENT'S NET WORTH.—The student's net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a displaced worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act); and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478):

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1-$60,000	40 percent of NW
$60,001-$180,000	$24,000 plus 50 percent of NW over $60,000
$180,001-$300,000	$84,000 plus 60 percent of NW over $180,000
$300,001 or more	$156,000 plus 100 percent of NW over $300,000

(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table:

Asset Protection Allowances for Students

If the age of the student is—	Then the asset protection allowance is—
25 or less	$0
26	1,500
27	3,000
28	4,500
29	6,100
30	7,600
31	9,100
32	10,600
33	12,100

Asset Protection Allowances for Students—Continued

If the age of the student is—	Then the asset protection allowance is—
34	13,600
35	15,100
36	16,600
37	18,200
38	19,700
39	21,200
40	22,700
41	23,200
42	23,800
43	24,200
44	24,800
45	25,400
46	26,100
47	26,700
48	27,200
49	27,900
50	28,800
51	29,500
52	30,300
53	31,000
54	32,000
55	32,800
56	33,800
57	34,600
58	35,700
59	36,800
60	37,900
61	39,000
62	40,200
63	41,400
64	42,600
65 or more	44,100

(4) Asset conversion rate.—The asset conversion rate is 35 percent.

(20 U.S.C. 1087pp) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1463; amended June 3, 1987, P.L. 100-50, sec. 14(1), (3), (4), (13)-(17), 101 Stat. 349, 351.

FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENTS

Sec. 477. (a) Computation of Expected Family Contribution.—For each independent student with dependents (including a spouse) the expected family contribution is equal to the amount determined by—

(1) computing adjusted available income by adding—

(A) the family's available income (determined in accordance with subsection (b));

(B) the family's income supplemental amount from assets (determined in accordance with subsection (c)); and

(C) the amount of veterans' benefits to be paid during the award period under chapters 32, 34, and 35 of title 38, United States Code;

(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d); and

(3) dividing the assessment resulting under paragraph (2) by the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

(b) FAMILY'S AVAILABLE INCOME.—

(1) IN GENERAL.—The family's available income is determined by deducting from total income (as defined in section 480)—

(A) Federal income taxes;

(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

(C) an allowance for social security taxes, determined in accordance with paragraph (3);

(D) a standard maintenance allowance, determined in accordance with paragraph (4);

(E) an employment expense allowance, determined in accordance with paragraph (5);

(F) a medical-dental expense allowance, determined in accordance with paragraph (6); and

(G) an educational expense offset, determined in accordance with paragraph (7);

except that the family's available income shall not be less than $700 for a first year undergraduate student or $900 for any other student.

(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And student's total income is— less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11

Percentages for Computation of State and Other Tax Allowance—Continued

If student's State or territory of residence is—	And student's total income is— less than $15,000	And student's total income is— $15,000 or more
	then the percentage is—	
Wisconsin	13	12
New York	14	13

(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student and the student's spouse multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

(4) STANDARD MAINTENANCE ALLOWANCE.—The standard maintenance allowance is the amount of reasonable living expenses that would be associated with the maintenance of an individual or family. The standard maintenance allowance is determined by the following table (or a successor table prescribed by the Secretary under section 479):

Family size (including student)	Number in college 1	2	3	4	5	For each additional subtract:
2	$8,380	$6,950				
3	10,440	9,010	$7,580			
4	12,890	11,460	10,030	$8,600		
5	15,210	13,780	12,350	10,920	$8,490	
6	17,790	16,360	14,930	13,500	12,070	1,430
For each additional add:	2,010	2,010	2,010	2,010	2,010	

(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows:

(A) If both the student and a spouse were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,100 or 35 percent of the earned income of the student or spouse with the lesser earned income.

(B) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,100 or 35 percent of his or her earned income.

For any award year after award year 1987–1988, this paragraph shall be applied by increasing the dollar amount specified in subparagraphs (A) and (B) to reflect increases in the amount and percent of the Bureau of Labor Standards budget of the marginal costs for meals away from home, apparel and upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

(6) Medical-dental expense allowance.—The medical-dental expense allowance is equal to the amount by which the sum of unreimbursed medical and dental expenses, including medical insurance premiums, exceeds 5 percent of the total income of the family.

(7) Educational expense allowance.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student or the student's spouse, or both, for each dependent child, enrolled in elementary or secondary school, not to exceed for each such child the national average per pupil instructional cost as published by the Center for Educational Statistics using the most recent available data.

(c) Family's Income Supplemental Amount From Assets.—

(1) In general.—The family's income supplemental amount from assets is equal to—

(A) the family net worth (determined in accordance with paragraph (2)); minus

(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

(C) the asset conversion rate (determined in accordance with paragraph (4)).

(2) Family net worth.—The family net worth is calculated by adding—

(A) the current balance of checking and savings accounts and cash on hand;

(B) the net value of investments and real estate, including the net value in the principal place of residence except in the case of a dislocated worker (certified in accordance with title III of the Job Training Partnership Act) or a displaced homemaker (as defined in section 480(e) of this Act); and

(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as "NW"), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478):

Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1-$60,000	40 percent of NW
$60,001-$180,000	$24,000 plus 50 percent of NW over $60,000
$180,001-$300,000	$84,000 plus 60 percent of NW over $180,000
$300,001 or more	$156,000 plus 100 percent of NW over $300,000

(3) Asset protection allowance.—The asset protection allowance is calculated according to the following table:

Asset Protection Allowances for Families and Students

If the age of the student is—	And there are	
	two spouses	one spouse
	then the asset protection allowance is—	
25 or less	$0	$0
26	1,900	1,500
27	3,900	3,000
28	5,800	4,500
29	7,800	6,100
30	9,700	7,600
31	11,700	9,100
32	13,600	10,600
33	15,600	12,100
34	17,500	13,600
35	19,500	15,100
36	21,400	16,600
37	23,400	18,200
38	25,300	19,700
39	27,300	21,200
40	29,200	22,700
41	30,000	23,200
42	30,800	23,800
43	31,600	24,200
44	32,500	24,800
45	33,300	25,400
46	34,200	26,100
47	35,200	26,700
48	36,100	27,200
49	37,300	27,900
50	38,300	28,800
51	39,600	29,500
52	40,900	30,300
53	42,000	31,000
54	43,400	32,000
55	44,800	32,800
56	46,300	33,800
57	48,100	34,600
58	49,700	35,700
59	51,600	36,800
60	53,300	37,900
61	55,300	39,000
62	57,400	40,200
63	59,600	41,400
64	61,800	42,600
65 or more	64,100	44,100

(4) ASSET CONVERSION RATE.—The asset conversion rate is determined as follows:

(A) if the family's net worth (determined in accordance with paragraph (2)) minus the asset protection allowance (determined in accordance with paragraph (3)) is equal to or greater than zero, the conversion rate is 12 percent;

(B) if such family's net worth minus such asset protection allowance is less than zero and the family's available income (determined in accordance with subsection (c)) is greater than $15,999, the conversion rate is zero percent;

(C) if such family's net worth minus such asset protection allowance is less than zero and such family's available income is equal to or greater than zero but less than $16,000, the conversion rate is equal to 6 percent multiplied by a fraction—

(i) the numerator of which is equal to $16,000 minus such family's available income; and

(ii) the denominator of which is $16,000; and

(D) if such family's net worth minus such asset protection allowance is less than zero and such family's available income is less than zero, the conversion rate is 6 percent.

(d) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (a)(1) and hereafter referred to as "AAI") is assessed according to the following table (or a successor table prescribed by the Secretary under section 478):

Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $7,500	22% of AAI
$7,501 to $9,400	$1,650 + 25% of AAI over $7,500
$9,401 to $11,300	$2,125 + 29% of AAI over $9,400
$11,301 to $13,200	$2,676 + 34% of AAI over $11,300
$13,201 to $15,100	$3,322 + 40% of AAI over $13,200
$15,101 or more	$4,082 + 47% of AAI over $15,100

(20 U.S.C. 1087qq) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1465; amended June 3, 1987, P.L. 100-50, sec. 14(1)-(6), (8), (18), (19), 101 Stat. 349, 350, 351.

REGULATIONS; UPDATED TABLES

SEC. 478. (a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

(A) to prescribe updated tables in accordance with subsections (b) through (e) of this section; or

(B) to propose modifications in the need analysis methodology required by this part.

(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (e) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (e) of this section.

(b) STANDARD MAINTENANCE ALLOWANCE.—For each academic year after academic year 1987–1988, the Secretary shall publish in the Federal Register a revised table of standard maintenance allowances for the purpose of sections 475(c)(4) and 477(b)(4). Such revised table shall be developed by increasing each of the dollar amounts contained in the table in each such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1986 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.

(c) Adjusted Net Worth of a Farm or Business.—For each academic year after academic year 1987–1988, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a farm or business for the purpose of sections 475(d)(2)(C), 476(c)(2)(C), and 477(c)(2)(C). Such revised table shall be developed—

(1) by increasing each dollar amount that refers to net worth of a farm or business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between 1986 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $5,000; and

(2) by adjusting the dollar amounts "$24,000", "$84,000", and "$156,000" to reflect the changes made pursuant to paragraph (1).

(d) Asset Protection Allowance.—For each academic year after academic year 1987–1988, the Secretary shall publish in the Federal Register a revised table of asset protection allowances for purposes of sections 475(d)(3), 476(c)(3), and 477(c)(3). Such revised table shall be developed by determining the present value cost, rounded to the nearest $100, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics) and the current average social security retirement benefits. For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100. In making such determinations—

(1) inflation shall be presumed to be 6 percent per year;

(2) the rate of return of an annuity shall be presumed to be 8 percent; and

(3) the sales commission on an annuity shall be presumed to be 6 percent.

(e) Assessment Schedules and Rates.—(1) For each academic year after academic year 1987–1988, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 475(e) and 477(d). Such revised table shall be developed—

(A) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1986 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

(B) by adjusting the other dollar amounts to reflect the changes made pursuant to subparagraph (A).

(2) For each academic year after academic year 1987-1988, the assessments made pursuant to section 476(b)(4) shall be made—

(A) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary after consultation with the Advisory Committee on Student Financial Assistance) between December 1986 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

(B) by adjusting the other dollar amount to reflect the changes made pursuant to subparagraph (A).

The Secretary shall publish in the Federal Register the adjustments required to carry out this paragraph.

(f) DEFINITION OF CONSUMER PRICE INDEX.—As used in this section, the term "Consumer Price Index" means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

(20 U.S.C. 1087rr) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1470; amended June 3, 1987, P.L. 100-50, sec. 14(20)-(22), 101 Stat. 351.

SIMPLIFIED NEEDS TEST

SEC. 479. (a) APPLICABLE TO ALL TITLE IV PROGRAMS.—The Secretary shall use a simplified needs analysis for any provision of this title based upon the elements set forth in subsection (b) for the calculation of the expected family contribution for families (1) who have adjusted gross incomes which are equal to or less than $15,000 per year and (2) who file a form 1040A or 1040EZ pursuant to the Internal Revenue Code of 1986, or are not required to file pursuant to such Code.

(b) ELEMENTS IN TESTS.—The five elements to be used for the simplified needs analysis are—

(1) adjusted gross income,

(2) Federal taxes paid,

(3) untaxed income and benefits,

(4) the number of family members,

(5) the number of family members in postsecondary education; and

(6) an allowance (A) for State and other taxes, as defined in section 475(c)(2) for dependent students and in section 477(b)(2) for independent students with dependents, or (B) for State and local income taxes, as defined in section 476(b)(2) for independent students without dependents;

(c) SIMPLIFIED APPLICATION FORM.—The Secretary shall develop and use a simplified application form for families described in this section to qualify for the use of a simplified needs analysis.

(20 U.S.C. 1087ss) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1472; amended June 3, 1987, P.L. 100-50, sec. 14(23)-(25), 101 Stat. 352.

DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS

SEC. 479A. (a) IN GENERAL.—Nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) to allow for treatment of individual students with special circumstances. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator to use supplementary information about the financial status or personal circumstance of eligible applicants in selecting recipients and determining the amount of awards under subparts 1 and 2 of part A and parts B, C, and E of this title.

(b) Adjustments To Assets Taken Into Account.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if—

(1) the administrator determines, in his or her discretion, that the effective family income of the applicant is small in relation to—

(A) the net value of the principal place of residence;

(B) the net worth of a farm on which the family resides; or

(C) the net worth of a family owned and operated small business;

(2) such administrator reduces or eliminates the amount of such net value or net worth that is subject to assessment in the computation of the expected family contribution of that applicant; and

(3) the administrator reports the amount of such adjustments made with respect to determinations for Pell Grants to the contractor or contractors processing applications for such grants for the award year.

(c) Asset Adjustment as Example.—The asset adjustment described in subsection (b) is an example of the type of adjustment which financial aid administrators are authorized to make by subsection (a), and shall not be considered to be the only adjustment that is so authorized.

(20 U.S.C. 1087tt) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1472; amended June 3, 1987, P.L. 100-50, sec. 14(26), 101 Stat. 352.

STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS

Sec. 479B. (a) Attendance Costs Not Treated as Income or Resources.—The portion of any student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

(b) Attendance Costs.—The attendance costs described in this subsection are—

(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the insti-

tution on at least a half-time basis, as determined by the institution.

(20 U.S.C. 1087uu) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1472; amended June 3, 1987, P.L. 100-50, sec. 14(27), 101 Stat. 353.

NATIVE AMERICAN STUDENTS

SEC. 479C. In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act; and

(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act or the Maine Indian Claims Settlement Act.

(20 U.S.C. 1087uu-1) Enacted June 3, 1987, P.L. 100-50, sec. 14(27), 101 Stat. 353.

DEFINITIONS

SEC. 480. As used in this part:

(a) TOTAL INCOME.—(1) Except as provided in paragraphs (2) through (4), the term "total income" is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (f)).

(2) In the computation of family contributions for the programs under subpart 2 of part A and parts B, C, and E of this title for any academic year, there shall be excluded from family income any proceeds of a sale of farm or business assets of that family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.

(3) Income in the case of a dislocated worker shall be the income for the year for which the determination is made. For the purpose of this subparagraph, a dislocated worker is a worker identified pursuant to title III of the Job Training Partnership Act.

(4) No portion of any student financial assistance received from any program by an individual shall be included as income in the computation of expected family contribution for any program funded in whole or in part under this Act.

(b) UNTAXED INCOME AND BENEFITS OF PARENTS AND INDEPENDENT STUDENTS WITH DEPENDENTS.—The term "untaxed income and benefits" when applied to parent contributions or the contributions of independent students with dependents (including spouses) means—

(1) child support received;

(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

(3) workman's compensation;

(4) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

(5) interest on tax-free bonds;

(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

(7) cash support or any money paid on the student's behalf;

(8) the amount of earned income credit claimed for Federal income tax purposes;

(9) untaxed portion of pensions;

(10) credit for Federal tax on special fuels;

(11) the amount of foreign income excluded for purposes of Federal income taxes;

(12) untaxed social security benefits;

(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

(c) UNTAXED INCOME AND BENEFITS OF DEPENDENT STUDENTS OR INDEPENDENT STUDENTS WITHOUT DEPENDENTS.—For the purpose of this part, the term "untaxed income and benefits" when applied to the contributions of dependent students or independent students without dependents means—

(1) child support received;

(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

(3) workman's compensation;

(4) veterans' benefits such as death pension, dependency and indemnity compensation, but excluding veterans' education benefits;

(5) interest on tax-free bonds;

(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

(7) cash support or any money paid on the student's behalf;

(8) the amount of earned income credit claimed for Federal income tax purposes;

(9) untaxed portion of pensions;

(10) credit for Federal tax on special fuels;

(11) the amount of foreign income excluded for purposes of Federal income taxes;

(12) untaxed social security benefits;

(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

(d) INDEPENDENT STUDENT.—(1) The term "independent", when used with respect to a student, means any individual who—

(A) is 24 years of age or older by December 31 of the award year; or

(B) meets the requirements of paragraph (2).

(2) Except as provided in paragraph (3), an individual meets the requirements of this paragraph if such individual—

(A) is an orphan or ward of the court;

(B) is a veteran of the Armed Forces of the United States;

(C) is a graduate or professional student who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

(D) is a married individual who declares that he or she will not be claimed as a dependent for income tax purposes by his or her parents (or guardian) for the first calendar year of the award year;

(E) has legal dependents other than a spouse;

(F) is a single undergraduate student with no dependents who was not claimed as a dependent by his or her parents (or guardian) for income tax purposes for the 2 calendar years preceding the award year and demonstrates to the student financial aid administrator total self-sufficiency during the 2 calendar years preceding the award year in which the initial award will be granted by demonstrating annual total resources (including all sources of resources other than parents) of $4,000; or

(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

(3) An individual may not be treated as an independent student pursuant to subparagraphs (C), (D), and (F) of paragraph (2) if the financial aid administrator determines that such individual was treated as an independent student during the preceding award year, but was claimed as a dependent by any other individual (other than a spouse) for income tax purposes for the first calendar year of such award year.

(4) The financial aid administrator may certify an individual described in subparagraph (C), (D), or (F) of paragraph (2) on the basis of a demonstration made by the individual, but no disbursal of an award may be made without documentation.

(e) Displaced Homemaker.—The term "displaced homemaker" means an individual who—

(1) has not worked in the labor force for a substantial number of years but has, during those years, worked in the home providing unpaid services for family members;

(2) (A) has been dependent on public assistance or on the income of another family member but is no longer supported by that income, or (B) is receiving public assistance on account of dependent children in the home; and

(3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(f) Excludable Income.—The term "excludable income" means—

(1) any unemployment compensation received by a dislocated worker certified in accordance with title III of the Job Training Partnership Act; and

(2) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of this title.

(g) Assets.—The term "assets" means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

(h) NET ASSETS.—The term "net assets" means the current market value at the time of application of the assets included in the definition of "assets", minus the outstanding liabilities or indebtedness against the assets.

(20 U.S.C. 1087vv) Enacted October 17, 1986, P.L. 99-498, sec. 406(a), 100 Stat. 1472; amended June 3, 1987, P.L. 100-50, sec. 14(28), 101 Stat. 353-355.

PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE PROGRAMS

DEFINITIONS

SEC. 481. (a) INSTITUTION OF HIGHER EDUCATION.—(1) For the purpose of this title, except subpart 6 of part A and part B, the term "institution of higher education" includes, in addition to the institutions covered by the definition contained in section 1201(a)—

(A) a proprietary institution of higher education;

(B) a postsecondary vocational institution;

(C) a department, division, or other administrative unit in a college or university which provides primarily or exclusively an accredited program of education in professional nursing and allied subjects leading to the degree of bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing; and

(D) a department, division, or other administrative unit in a junior college, community college, college, or university which provides primarily or exclusively an accredited 2-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree.

(2) The term "accredited" when applied to any program of nurse education means a program accredited by a recognized body or bodies approved for such purpose by the Secretary.

(b) PROPRIETARY INSTITUTION OF HIGHER EDUCATION.—For the purpose of this section, the term "proprietary institution of higher education" means a school (1) which provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1) and (2) of section 1201(a), (3) which does not meet the requirement of clause (4) of section 1201(a), (4) which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, and (5) which has been in existence for at least 2 years. Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit (as determined by the institution under section 484(d)) from the training offered by the institution. For the purpose of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered. The Secretary shall not promulgate regulations defining the admissions procedures or remediation programs that must be used by an institution in admitting students on the basis of their ability to benefit from the training offered and shall not, as a condition of recognition under section 413(e) of this Act, impose upon any accrediting body or bodies standards which are different or more restrictive than the standards provided in this subsection.

(c) POSTSECONDARY VOCATIONAL INSTITUTION.—For the purpose of this section, the term "postsecondary vocational institution" means a school (1) which provides not less than a 6-month program of training to prepare students for gainful employment in a recognized occupation, (2) which meets the requirements of clauses (1), (2), (4), and (5) of section 1201(a), and (3) which has been in existence for at least 2 years. Such term also includes an educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit (as determined by the institution under section 484(d)) from the training offered by the institution.

(d) ACADEMIC YEAR.—For the purpose of any program under this title, the term "academic year" shall be defined by the Secretary by regulation.

(20 U.S.C. 1088) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1444; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1476; amended June 3, 1987, P.L. 100-50, sec. 15(1), 101 Stat. 355.

MASTER CALENDAR

SEC. 482. (a) SECRETARY REQUIRED TO COMPLY WITH SCHEDULE.—To assure adequate notification and timely delivery of student aid funds under this title, the Secretary shall adhere to the following calendar dates in the year preceding the award year:

(1) Development and distribution of Federal and multiple data entry forms—

(A) by February 1: first meeting of the technical committee on forms design of the Department;

(B) by March 1: proposed modifications and updates pursuant to sections 411E and 478 published in the Federal Register;

(C) by June 1: final modifications and updates pursuant to sections 411E and 478 published in the Federal Register;

(D) by August 15: application for Federal student assistance and multiple data entry data elements and instructions approved;

(E) by August 30: final approved forms delivered to servicers and printers;

(F) by October 1: Federal and multiple data entry forms and instructions printed; and

(G) by November 1: Federal and multiple data entry forms, instructions, and training materials distributed.

(2) Allocations of campus-based and Pell Grant funds—

(A) by August 1: distribution of institutional application for campus-based funds (FISAP) to institutions;

(B) by October 1: final date for submission of FISAP by institutions to the Department;

(C) by November 15: edited FISAP and computer printout received by institutions;

(D) by December 1: appeals procedures received by institutions;

(E) by December 15: edits returned by institutions to the Department;

(F) by February 1: tentative award levels received by institutions and final Pell Grant payment schedule;

(G) by February 15: closing date for receipt of institutional appeals by the Department;

(H) by March 1: appeals process completed;

(I) by April 1: final award notifications sent to institutions; and

(J) by June 1: Pell Grant authorization levels sent to institutions.

(b) TIMING FOR REALLOCATIONS.—With respect to any funds reallocated under section 413D(e), 442(e), or 462(j), the Secretary shall reallocate such funds at any time during the course of the year that will best meet the purpose of the programs under subpart 2 of part A, part C, and part E, respectively. However, such reallocation shall occur at least once each year, not later than September 30 of that year.

(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—Any additional regulatory changes initiated by the Secretary affecting the general administration of the programs pursuant to this title that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after the December 1 date.

(d) NOTICE TO CONGRESS.—The Secretary shall notify the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives when the items specified in the calendar have been completed and provide all relevant forms, rules, and instructions with such notice. When a deadline included in the calendar is not met, the Secretary, within 7 days, shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a written report, including proper documentation, as to why the deadline was not adhered to and a detailed plan for ensuring that subsequent dates are met. Nothing in this section shall be interpreted to penalize institutions or deny them the specified times allotted to enable them to return information to the Secretary based on the failure of the Secretary to adhere to the dates specified in this section.

(20 U.S.C. 1089) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1445; amended April 7, 1986, P.L. 99-272, sec. 1089, 100 Stat. 354; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1477; amended June 3, 1987, P.L. 100-50, sec. 15(2), 101 Stat. 355.

FORMS AND REGULATIONS

SEC. 483. (a) COMMON FINANCIAL AID FORM AND PROCESSING.—(1) The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall prescribe a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A, C, and E of this title (other than under subpart 3 of part A) and to determine the need of a student for the purpose of part B of this title. For the purpose of collecting eligibility and other data for the purpose of part B, guaranty agencies, in cooperation with the Secretary, shall develop separate, identifiable loan application documents that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to eligible lenders and on which the applicant shall clearly indicate a choice of lender. No student or parent of a student shall be charged a fee for processing the form prescribed by the Secretary whether the student completes that form or any other approved form. A student or parent may be charged a fee for processing an institutional or a State financial aid form or data elements that is[1] not required by the Secretary.

(2) The Secretary shall, to the extent practicable, enter into not less than 5 contracts with States, institutions of higher education, or private organizations for the purpose of processing the application required under this subsection and issuing eligibility reports. The Secretary shall not select new multiple data entry processors after the date of enactment of the Higher Education Amendments Act of 1986, until the Advisory Commission on Student Financial Assistance has examined and made recommendations on the expansion of the number and kind of processors and its impact on students, has assessed and made recommendations on the relative cost of processing applications and development fees, and has examined and made recommendations on the implementation of a standardized fee for the reimbursement of all processors by the Federal Government.

(3) The Secretary shall reimburse all approved contractors at a reasonable predetermined rate for processing such applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary.

(4) All approved contractors shall be required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

(5) Nothing in this section shall prohibit States, institutions of higher education, or private organizations from simultaneously collecting data elements, in addition to the data elements prescribed by the Secretary, as may be necessary to determine the eligibility of a student for financial aid funds not covered by this title.

(b) Certification of Capability.—Beginning with the 1988-1989 processing year, the Secretary shall be authorized to enter into agreements with institutions of higher education, States, or private organizations for the purpose of certifying the capability of their systems for determining expected family contributions under part F of this title.

(c) Information to Committees of Congress.—Copies of all rules, regulations, guidelines, instructions, and application forms published or promulgated pursuant to this title shall be provided to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives at least 45 days prior to their effective date.

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[1] So in original. Should be "are".

(d) Information on Eligibility for Assistance.—To help ensure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary is authorized to enter into contracts with States, institutions of higher education, and private organizations for the purpose of—

(1) developing a common pre-eligibility Federal financial aid form,

(2) distributing and processing such form on a year-round basis free of charge to students, and

(3) issuing, on the basis of information reported by the student on such form, a pre-eligibility index designed to estimate the amount of Federal (and, if feasible, non-Federal) funds for which the student might qualify in later completing and submitting the application form called for under this section.

The Secretary shall widely disseminate the pre-eligibility form through post offices and other appropriate Federal installations, schools, postsecondary institutions, libraries, and community-based agencies, including projects assisted under subparts 4 and 5 of part A of this title.

(e) Toll-Free Information.—The Secretary shall contract for, or establish, and publicize a toll-free telephone number to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing application forms for assistance under this title.

(f) Notice of Student Aid Receipt.—(1) The Secretary shall develop a single form on which the amount of assistance received under this title (except assistance received under subparts 4, 5, and 7 of part A) by each student who receives such assistance can be recorded. This form shall be titled "United States Department of Education, Federal Student Assistance Report". Such form shall have prominently displayed the Great Seal of the United States. Such form shall be the same or a closely similar color to that of checks issued by the Treasury Department and be provided by the Secretary free to eligible institutions in sufficient quantity and in a timely manner so that each eligible institution can provide a completed copy to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) at the time awards are made but not less than once annually.

(2) Eligible institutions shall provide to each recipient of assistance under this title (except assistance received under subparts 4, 5, and 7 of part A) a completed copy of the "United States Department of Education, Federal Student Assistance Report" form at the time awards are made but not less than once annually.

(20 U.S.C. 1090) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1478; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1478; amended June 3, 1987, P.L. 100-50, sec. 15(3)-(6), 101 Stat. 356.

STUDENT ELIGIBILITY

Sec. 484. (a) In General.—In order to receive any grant, loan, or work assistance under this title, a student must—

(1) be enrolled or accepted for enrollment in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible

institution in accordance with the provisions of section 487, except as provided in subsection (b)(2);

(2) if the student is presently enrolled at an institution, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c);

(3) not owe a refund on grants previously received at any institution under this title, or be in default on any loan from a student loan fund at any institution provided for in part E, or a loan made, insured, or guaranteed by the Secretary under this title for attendance at any institution;

(4) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a statement of educational purpose (which need not be notarized but which shall include such student's social security number or, if the student does not have a social security number, such student's student identification number) stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

(5) be a citizen or national of the United States, a permanent resident of the United States, in the United States for other than a temporary purpose and able to provide evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident, or a permanent resident of the Trust Territory of the Pacific Islands, Guam, or the Northern Mariana Islands.

(b) Eligibility for Student Loans.—(1) In order to be eligible to receive any loan under this title (other than a loan under section 428A, 428B, or 428C) for any period of enrollment, a student who is not a graduate or professional student (as defined in regulations of the Secretary), and who is enrolled in a program at an institution which has a participation agreement with the Secretary to make awards under subpart 1 of part A of this title, shall—

(A) have received a determination of eligibility or ineligibility for a grant under such subpart 1 for such period of enrollment; or

(B) have (A) filed an application with the Pell Grant processor for such institution for such enrollment period, and (B) received from the financial aid administrator of the institution a preliminary determination of the student's eligibility or ineligibility for a grant under such subpart 1.

(2) A student who—

(A) is carrying at least one-half the normal full-time work load for the course of study that the student is pursuing, as determined by an eligible institution, and

(B) is enrolled in a course of study necessary for enrollment in a program leading to a degree or certificate,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title. The eligibility described in this paragraph shall be restricted to one 12-month period.

(c) Satisfactory Progress.—(1) For the purpose of subsection (a)(2), a student is maintaining satisfactory progress if—

(A) the institution at which the student is in attendance, reviews the progress of the student at the end of each academic year, or its equivalent, as determined by the institution, and

(B) the student has a cumulative C average, or its equivalent or academic standing consistent with the requirements for graduation, as determined by the institution, at the end of the second such academic year.

(2) Whenever a student fails to meet the eligibility requirements of subsection (a)(2) as a result of the application of this subsection and subsequent to that failure the student has academic standing consistent with the requirements for graduation, as determined by the institution, for any grading period, the student may, subject to this subsection, again be eligible under subsection (a)(2) for a grant, loan, or work assistance under this title.

(3) Any institution of higher education at which the student is in attendance may waive the provisions of paragraph (1) or paragraph (2) of this subsection for undue hardship based on—

(A) the death of a relative of the student,

(B) the personal injury or illness of the student, or

(C) special circumstances as determined by the institution.

(d) Ability to Benefit.—A student who is admitted on the basis of the ability to benefit from the education or training in order to remain eligible for any grant, loan, or work assistance under this title shall—

(1) receive the general education diploma prior to the student's certification or graduation from the program of study, or by the end of the first year of the course of study, whichever is earlier;

(2) be counseled prior to admission and be enrolled in and successfully complete the institutionally prescribed program of remedial or developmental education not to exceed one academic year or its equivalent; or

(3)(A) be administered a nationally recognized, standardized, or industry developed test, subject to criteria developed by the appropriate accrediting association, measuring the applicant's aptitude to complete successfully the program to which the applicant has applied; and

(B) with respect to applicants who are unable to satisfy the institutions' admissions testing requirements specified in subparagraph (A), be enrolled in and successfully complete an institutionally prescribed program or course of remedial or developmental education not to exceed one academic year or its equivalent.

In order to be eligible for assistance a student cannot be enrolled in either an elementary or a secondary school.

(e) Certification for GSL Eligibility.—Each eligible institution may certify student eligibility for a loan by an eligible lender under part B of this title prior to completing the review for accuracy of the information submitted by the applicant required by regulations issued under this title, if—

(1) checks for the loans are mailed to the eligible institution prior to disbursements;

(2) the disbursement is not made until the review is complete; and

(3) the eligible institution has no evidence or documentation on which the institution may base a determination that the information submitted by the applicant is incorrect.

(f) VERIFICATION LIMITATIONS.—Notwithstanding any other provision of law, the Secretary may not require, or prescribe regulations that require, institutions to verify the accuracy of data used to determine the eligibility for any program under this title for more than 30 percent of the applicants in any award year. In carrying out the provisions of this subsection no eligible institution shall be required to verify more than 30 percent of such applicants in any award year.

(g) LOSS OF ELIGIBILITY FOR VIOLATION OF LOAN LIMITS.—No student shall be eligible to receive any grant, loan, or work assistance under this title if the eligible institution determines that the student borrowed in violation of the annual loan limits under part B or part E of this title in the same academic year, or if the student borrowed in excess of the aggregate maximum loan limits under such part B or part E.

(c)[1] The following conditions apply with respect to an individual's receipt of any grant, loan, or work assistance under this title as a student at an institution of higher education:

(1)(A) There must be a declaration in writing to the institution by the student, under penalty of perjury, stating whether or not the student is a citizen or national of the United States, and, if the student is not a citizen or national of the United States, that the individual is in a satisfactory immigration status.

(B) In this subsection, the term "satisfactory immigration status" means an immigration status which does not make the student ineligible for a grant, loan, or work assistance under this title.

(2) If the student is not a citizen or national of the United States, there must be presented to the institution either—

(A) alien registration documentation or other proof of immigration registration from the Immigration and Naturalization Service that contains the individual's alien admission number or alien file number (or numbers if the individual has more than one number), or

(B) such other documents as the institution determines (in accordance with guidelines of the Secretary) constitutes reasonable evidence indicating a satisfactory immigration status.

(3) If the documentation described in paragraph (2)(A) is presented, the institution shall utilize the individual's alien file or alien admission number to verify with Immigration and Naturalization Service the individual's immigration status through an automated or other system (designated by the Service for use with institutions) that—

(A) utilizes the individual's name, file number, admission number, or other means permitting efficient verification, and

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[1] Subsections (c)–(e), added by P.L. 99–603 to the end of section 484, should have been designated as (h)–(j).

(B) protects the individual's privacy to the maximum degree possible.

(4) In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the documentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

(A) the institution—

(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

(B) if there are submitted documents which the institution determines constitutes reasonable evidence indicating such status—

(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.

(5) If the institution determines after complying with the requirements of paragraph (4), that such an individual is not in a satisfactory immigration status—

(A) the institution shall deny or terminate the individual's eligibility for such grant, loan, or work assistance, and

(B) the fair hearing process (which includes, at a minimum, the requirements of paragraph (6)) shall be made available with respect to the individual.

(6) The minimal requirements of this paragraph for a fair hearing process are as follows:

(A) The institution provides the individual concerned with written notice of the determination described in paragraph (5) and of the opportunity for a hearing respecting the determination.

(B) Upon timely request by the individual, the institution provides a hearing before an official of the institution at which the individual can produce evidence of a satisfactory immigration status.

(C) Not later than 45 days after the date of an individual's request for a hearing, the official will notify the individual in writing of the official's decision on the appeal of the determination.

(d) The Secretary shall not take any compliance, disallowance, penalty, or other regulatory action against an institution of higher education with respect to any error in the institution's determination to make a student eligible for a grant, loan, or work assistance based on citizenship or immigration status—

(1) If the institution has provided such eligibility based on a verification of satisfactory immigration status by the Immigration and Naturalization Service,

(2) because the institution, under subsection (c)(4)(A)(ii), was required to provide a reasonable opportunity to submit documentation,

(3) because the institution, under subsection (c)(4)(B)(ii), was required to wait for the response of the Immigration and Naturalization Service to the institution's request for official verification of the immigration status of the student, or

(4) because of a fair hearing process described in subsection (c)(5)(B).

(e) Notwithstanding subsection (c), if—

(1) a guaranty is made under this title for a loan made with respect to an individual,

(2) at the time the guaranty is entered into, the provisions of subsection (c) had been complied with,

(3) amounts are paid under the loan subject to such guaranty, and

(4) there is a subsequent determination that, because of an unsatisfactory immigration status, the individual is not eligible for the loan,

the official of the institution making the determination shall notify and instruct the entity making the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date of the entity receives the notice.

(20 U.S.C. 1091) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1448; amended April 7, 1986, P.L. 99-272, sec. 16032, 100 Stat. 354; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1479; amended Nov. 6, 1986, P.L. 99-603, sec. 121(a)(3), 100 Stat. 3388; amended June 3, 1987, P.L. 100-50, sec. 15(7)-(9), 101 Stat. 356.

STATUTE OF LIMITATIONS

SEC. 484A. (a) IN GENERAL.—Notwithstanding any provision of State law that would set an earlier deadline for filing suit—

(1) an institution which receives funds under this title may file suit for collection of a refund due from a student on a grant made or work assistance awarded under this title during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date the refund first became due;

(2) a guaranty agency which has an agreement with the Secretary under section 428(c) may file suit for collection of the amount due from a borrower on a loan made under part B of this title during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date such guaranty agency re-

imburses the previous holder of the loan for its loss on account of the default of the borrower;

(3) an institution which has an agreement with the Secretary pursuant to section 463(a) may file suit for collection of the amount due from a borrower on a loan made under part E of this title during a period of time extending at least until a date 6 years (exclusive of periods during which the State statute of limitations period otherwise applicable to the suit would be tolled under State law) after the date of the default of the borrower with respect to that amount; and

(4) subject to the provisions of section 2416 of title 28 of the United States Code, the Attorney General may file suit—

(A) for payment of a refund due from a student on a grant made under this title until 6 years following the date on which the refund first became due;

(B) for collection of the amount due the Secretary from a borrower pursuant to section 428 (c)(2)(D) and (c)(8) of this title until 6 years following the date on which the loan is assigned to the Secretary under part B of this title; and

(C) for collection of the amount due from a borrower on a loan made under part E until 6 years following the date on which the loan is assigned, transferred, or referred to the Secretary under part E of this title.

(b) Assessment of Costs and Other Charges.—Notwithstanding any provision of State law to the contrary—

(1) a borrower who has defaulted on a loan made under this title shall be required to pay, in addition to other charges specified in this title, reasonable collection costs; and

(2) in collecting any obligation arising from a loan made under part B of this title, a guaranty agency or the Secretary shall not be subject to a defense raised by any borrower based on a claim of infancy.

(20 U.S.C. 1091a) Enacted April 7, 1986, P.L. 99-272, sec. 16033, 100 Stat. 355; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1482.

INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS

Sec. 485. (a) Information Dissemination Activities.—(1) Each eligible institution participating in any program under this title shall carry out information dissemination activities for prospective and enrolled students (including those attending or planning to attend less than full time) regarding the institution and all financial assistance under this title. The information required by this section shall be produced and be made readily available, through appropriate publications and mailings, to all current students, and to any prospective student upon request. The information required by this section shall accurately describe—

(A) the student financial assistance programs available to students who enroll at such institution;

(B) the methods by which such assistance is distributed among student recipients who enroll at such institution;

(C) any means, including forms, by which application for student financial assistance is made and requirements for accurately preparing such application;

(D) the rights and responsibilities of students receiving financial assistance under this title;

(E) the cost of attending the institution, including (i) tuition and fees, (ii) books and supplies, (iii) estimates of typical student room and board costs or typical commuting costs, and (iv) any additional cost of the program in which the student is enrolled or expresses a specific interest;

(F) a statement of the refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost, as described in subparagraph (E) of this paragraph;

(G) the academic program of the institution, including (i) the current degree programs and other educational and training programs, (ii) the instructional, laboratory, and other physical plant facilities which relate to the academic program, and (iii) the faculty and other instructional personnel;

(H) each person designated under subsection (c) of this section, and the methods by which and locations in which any person so designated may be contacted by students and prospective students who are seeking information required by this subsection;

(I) special facilities and services available to handicapped students;

(J) the names of associations, agencies, or governmental bodies which accredit, approve, or license the institution and its programs, and the procedures under which any current or prospective student may obtain or review upon request a copy of the documents describing the institution's accreditation, approval, or licensing; and

(K) the standards which the student must maintain in order to be considered to be making satisfactory progress, pursuant to section 484(a)(2).

(2) For the purpose of this section, the term "prospective student" means any individual who has contacted an eligible institution requesting information concerning admission to that institution.

(b) Exit Counseling for Borrowers.—Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers (individually or in groups) of loans which are made, insured, or guaranteed under part B of this title (other than loans made pursuant to section 428B) of this title or made under part E of this title prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

(1) general information with respect to the average indebtedness of students who have loans under part B or part E; and

(2) the average anticipated monthly repayments, a review of the repayment options available, together with such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness.

In the case of a borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information to the student in writing.

(c) Financial Assistance Information Personnel.—Each eligible institution shall designate an employee or group of employees who shall be available on a full-time basis to assist students or potential students in obtaining information as specified in subsection (a). The Secretary may, by regulation, waive the requirement that an employee or employees be available on a full-time basis for carrying out responsibilities required under this section whenever an institution in which the total enrollment, or the portion of the enrollment participating in programs under this title at that institution, is too small to necessitate such employee or employees being available on a full-time basis. No such waiver may include permission to exempt any such institution from designating a specific individual or a group of individuals to carry out the provisions of this section.

(d) DEPARTMENTAL PUBLICATION OF DESCRIPTIONS OF ASSISTANCE PROGRAMS.—The Secretary shall make available to eligible institutions, eligible lenders, and secondary schools descriptions of Federal student assistance programs including the rights and responsibilities of student and institutional participants, in order to (1) assist students in gaining information through institutional sources, and (2) assist institutions in carrying out the provisions of this section, so that individual and institutional participants will be fully aware of their rights and responsibilities under such programs. In particular, such information shall include information to enable students and prospective students to assess the debt burden and monthly and total repayment obligations that will be incurred as a result of receiving loans of varying amounts under this title. In addition, such information shall include information to enable borrowers to assess the practical consequences of loan consolidation, including differences in deferment eligibility, interest rates, monthly payments, and finance charges, and samples of loan consolidation profiles to illustrate such consequences. Such information shall be provided by eligible institutions and eligible lenders at any time that information regarding loan availability is provided to any student.

(20 U.S.C. 1092) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1449; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1482; amended June 3, 1987, P.L. 100–50, sec. 15(10)–(11), 101 Stat. 357.

COMBINED PAYMENT PLAN

SEC. 485A. (a) ELIGIBILITY FOR PLAN.—Upon the request of the borrower, a lender described in subparagraph (A), (B), or (C) of section 428C(a)(1) of this Act, or defined in subpart I of part C of title VII of the Public Health Service Act may, with respect to a consolidation loan made under section 428C of this Act (and section 439(o) of this Act as in effect prior to the enactment of section 428C) and loans guaranteed under subpart I of part C of title VII of the Public Health Service Act (known as Health Education Assistance Loans), offer a combined payment plan under which the lender shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment.

(b) APPLICABILITY OF OTHER REQUIREMENTS.—A lender offering a combined payment plan shall comply with all provisions of section 428C applicable to loans consolidated or to be consolidated and shall comply with all provisions of subpart I of part C of title VII of the Public Health Service Act applicable to loans under that subpart which are made part of the combined payment plan, except that a lender offering a combined payment plan under this section may offer consolidation loans pursuant to section 428C(b)(1)(A) if such lender holds any outstanding loan of a borrower which is selected for inclusion in a combined payment plan.

(c) LENDER ELIGIBILITY.—Such lender may offer a combined payment plan only if—

(1) the lender holds an outstanding loan of that borrower which is selected by the borrower for incorporation into a combined payment plan pursuant to this section (including loans which are selected by the borrower for consolidation under this section); or

(2) the borrower certifies that the borrower has sought and has been unable to obtain a combined payment plan from the holders of the outstanding loans of that borrower.

(d) BORROWER SELECTION OF COMPETING OFFERS.—In the case of multiple offers by lenders to administer a combined payment plan for a borrower, the borrower shall select from among them the lender to administer the combined payment plan including its loan consolidation component.

(e) EFFECT OF PLAN.—Upon selection of a lender to administer the combined payment plan, the lender may reissue any Health Education Assistance Loan selected by the borrower for incorporation in the combined payment plan which is not held by such lender and the proceeds of such reissued loan shall be paid by the lender to the holder or holders of the loans so selected to discharge the liability on such loans, if—

(1) the lender selected to administer the combined payment plan has determined to its satisfaction, in accordance with reasonable and prudent business practices, for each loan being reissued (A) that the loan is a legal, valid, and binding obligation of the borrower; (B) that each such loan was made and serviced in compliance with applicable laws and regulations; and (C) the insurance on such loan is in full force and effect; and

(2) the loan being reissued was not in default (as defined in section 733(e)(3) of the Public Health Service Act) at the time the request for a combined payment plan is made.

(f) NOTES AND INSURANCE CERTIFICATES.—(1) Each loan reissued under subsection (e) shall be evidenced by a note executed by the borrower. The Secretary of Health and Human Services shall insure such loan under a certificate of comprehensive insurance with no insurance limit, but any such certificate shall only be issued to an authorized holder of loans insured under subpart I of part C of title VII of the Public Health Service Act (including the Student Loan Marketing Association). Such certificates shall provide that all loans reissued under this section shall be fully insured against loss of principal and interest. Any insurance issued with respect to loans reissued under this section shall be excluded from the limitation on maximum insurance authority set forth in section 728(a) of the Public Health Service Act. Notwithstanding the provisions of section 729(a) of the Public Health Service Act, the reissued loan shall be made in an amount, including outstanding principal, capitalized interest, accrued unpaid interest not yet capitalized, and authorized late charges. The proceeds of each such loan will be paid by the lender to the holder of the original loan being reissued and the borrower's obligation to that holder on that loan shall be discharged.

(2) Except as otherwise specifically provided for under the provisions of this section, the terms of any reissued loan shall be the same as the terms of the original loan. The maximum repayment period for a loan reissued under this section shall not exceed the remainder of the period which would have been permitted on the original loan. If the lender holds more than one loan insured under subpart I of part C of title VII of the Public Health Service Act, the maximum repayment period for all such loans may extend to the latest date permitted for any individual loan. Any reissued loan may be consolidated with any other Health Education Assistance Loan as provided in the Public Health Service Act, and, with the concurrence of the borrower, repayment of any such loans during any period may be made in amounts that are less than the interest that accrues on such loans during that period.

(g) Termination of Borrower Eligibility.—The status of an individual as an eligible combined payment plan borrower terminates upon receipt of a combined payment plan.

(h) Fees and Premiums.—No origination fee or insurance premium shall be charged to the borrower on any combined payment plan, and no origination fee or insurance premium shall be payable by the lender to the Secretary of Health and Human Services.

(i) Commencement of Repayment.—Repayment of a combined payment plan shall commence within 60 days after the later of the date of acceptance of the lender's offer to administer a combined payment plan, the making of the consolidation loan or the reissuance of any Health Education Assistance Loans pursuant to subsection (e).

(20 U.S.C. 1092a) Enacted October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1484; amended June 3, 1987, P.L. 100-50, sec. 15(12), 101 Stat. 357.

NATIONAL STUDENT LOAN DATA SYSTEM

Sec. 485B. (a) Authority of the Secretary.—In order to assure improved and accurate information on student loan indebtedness and institutional lending practices, and to insure improved compliance with the repayment and loan limitation provisions of this title, the Secretary is authorized to establish and carry out a nationwide computerized student loan data system containing information regarding loans made, insured, or guaranteed under part B and loans made under part E. The information in the data system shall include—

(1) the exact amount of such loans made;

(2) the names, social security numbers, and addresses of the borrowers (and in the case of dependent students the names and addresses of the parents of such students);

(3) the guaranty agency responsible for the guarantee of the loan in the case of loans made, insured, or guaranteed under part B; and

(4) the institution of higher education or organization responsible for loans made under part E.

The information to be stored in the student loan data system established by this subsection shall be furnished by guaranty agencies for loans made, insured, or guaranteed under part B and by institutions of higher education for loans made under part E.

(b) Access to Information.—(1) Subject to the provisions of paragraphs (2) and (3), and notwithstanding the provisions of section 552(a) of title 5, United States Code, relating to freedom of information, access to information in the data system established and maintained pursuant to subsection (a) of this section shall be restricted to individuals and public agencies, specifically authorized by the Secretary to have such access.

(2) In carrying out this subsection, the Secretary shall approve access to information for—

(A) research on student loan practices, student and parental indebtedness, repayment and debt collection trends, Federal costs associated with the guaranteed student loan program under part B of this title, including the cost of interest subsidies and special allowance payments;

(B) the improvement of Federal debt collection practices and Federal criminal prosecutions under this title, relating to loans made, insured, or guaranteed under part B or loans under part E of this title;

(C) furnishing information in response to an official request made by any committee of the Congress; and

(D) any guaranty agency under part B, except that such access shall be limited to the name, social security number, and the amount of indebtedness, including the amount borrowed each year, of any borrower.

(3) No name, address, or social security number of any individual borrower may be made available to any requesting individual, public agency, or organization, unless the Secretary determines that the request is connected with the enforcement or debt collection responsibilities imposed by Federal law on such individual, agency, or organization.

(4) In carrying out this subsection, the Secretary shall require semiannual reports (continuing the information set forth in subsection (a) (1) and (2)) from each guaranty agency responsible for the guarantee of loans made, insured, or guaranteed under part B and any institution of higher education or proprietary institution responsible for a loan made under part E.

(c) Verification Not Required.—The Secretary shall not require lenders, guaranty agencies, or institutions of higher education to verify information or obtain eligibility or other information through the National Student Loan Data System prior to making, guaranteeing, or certifying a loan under part B or part E.

(d) Report to Congress.—The Secretary shall prepare and submit to the Congress twice in each fiscal year a report describing the results obtained by the establishment and operation of the student loan data system authorized by this section.

(20 U.S.C. 1092b) Enacted October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1486; amended June 3, 1987, P.L. 100-50, sec. 15(13), 101 Stat. 357.

TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

Sec. 486. (a) Program Authority.—The Secretary is authorized to enter into contracts with appropriate public agencies or nonprofit private organizations or institutions of higher education to provide training for financial aid administrators, student peer counselors, student staff or volunteers, and other part-time staff and volunteers who provide financial aid, admissions and academic counseling and outreach, and student support programs in postsecondary education in postsecondary institutions, communities, or statewide programs.

(b) Use of Funds.—Financial assistance under this section may be used for—

(1) development of materials and in-service training and career awareness programs;

(2) operation of short-term training institutes designed to improve the skills and career awareness of participants in such institutes; and

(3) special programs to assist in training of students and part-time staff or volunteers at institutions eligible for assistance under title III of this Act.

(c) Authorization of Appropriations.—There are authorized to be appropriated $1,000,000 to carry out the provisions of this section for fiscal year 1981 and for each of the succeeding fiscal years ending prior to October 1, 1986.

(20 U.S.C. 1093) Enacted October 3, 1980, P.L. 96–374, sec. 451(a), 94 Stat. 1450; amended October 17, 1986, P.L. 99–498, sec. 407(a), 100 Stat. 1487.

PROGRAM PARTICIPATION AGREEMENTS

Sec. 487. (a) Required for Programs of Assistance; Contents.—In order to be an eligible institution for the purposes of any program authorized under this title, an institution must be an institution of higher education or an eligible institution (as that term is defined for the purpose of that program) and shall, except with respect to a program under subpart 3 of part A, enter into a program participation agreement with the Secretary. The agreement shall condition the initial and continuing eligibility of an institution to participate in a program upon compliance with the following requirements:

(1) The institution will use funds received by it for any program under this title and any interest or other earnings thereon solely for the purpose specified in and in accordance with the provision of that program.

(2) The institution shall not charge any student a fee for processing or handling any application, form, or data required to determine the student's eligibility for assistance under this title or the amount of such assistance, or for completing or handling the Federal Student Assistance Report provided for in section 483(e).

(3) The institution will establish and maintain such administrative and fiscal procedures and records as may be necessary to ensure proper and efficient administration of funds received from the Secretary or from students under this title.

(4) The institution will comply with the provisions of subsection (b) of this section and the regulations prescribed under that subsection, relating to fiscal eligibility.

(5) The institution will submit reports to the Secretary and, in the case of an institution participating in a program under part B or part E, to holders of loans made to the institution's

students under such parts at such times and containing such information as the Secretary may reasonably require to carry out the purpose of this title.

(6) The institution will not provide any student with any statement or certification to any lender under part B that qualifies the student for a loan or loans in excess of the amount that student is eligible to borrow in accordance with sections 425(a), 428(a)(2), and 428(b)(1) (A) and (B).

(7) The institution will comply with the requirements of section 485.

(8) In the case of an institution that advertises job placement rates as a means of attracting students to enroll in the institution, the institution will make available to prospective students, at or before the time of application, the most recent available data concerning employment statistics, graduation statistics, and any other information necessary to substantiate the truthfulness of the advertisements.

(9) In the case of an institution participating in a program under part B, the institution will inform all eligible borrowers enrolled in the institution about the availability and eligibility of such borrowers for State grant assistance from the State in which the institution is located, and will inform such borrowers from another State of the source for further information concerning such assistance from that State.

(10) The institution certifies that it has in operation a drug abuse prevention program that is determined by the institution to be accessible to any officer, employee, or student at the institution.

(b) HEARINGS.—(1) An institution that has received written notice of a final audit or program review determination and that desires to have such determination reviewed by the Secretary shall submit to the Secretary a written request for review not later than 45 days after receipt of notification of the final audit or program review determination.

(2) The Secretary shall, upon receipt of written notice under paragraph (1), arrange for a hearing on the record and notify the institution within 30 days of receipt of such notice the date, time, and place of such hearing. Such hearing shall take place not later than 120 days from the date upon which the Secretary notifies the institution.

(c) AUDITS; FINANCIAL RESPONSIBILITY; ENFORCEMENT OF STANDARDS.—(1) Notwithstanding any other provisions of this title, the Secretary is authorized to prescribe such regulations as may be necessary to provide for—

(A)(i) except as provided in clause (ii), a financial and compliance audit of an eligible institution, with regard to any funds obtained by it under this title or obtained from a student or a parent who has a loan insured or guaranteed by the Secretary under this title, at least once every 2 years and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

(ii) with regard to an eligible institution which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;

(B) in matters not governed by specific program provisions, the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid under this title;

(C) the establishment, by each eligible institution under part B responsible for furnishing to the lender the statement required by section 428(a)(2)(A)(i), of policies and procedures by which the latest known address and enrollment status of any student who has had a loan insured under this part and who has either formally terminated his enrollment, or failed to re-enroll on at least a half-time basis, at such institution, shall be furnished either to the holder (or if unknown, the insurer) of the note, not later than 60 days after such termination or failure to re-enroll; and

(D) the limitation, suspension, or termination of the eligibility for any program under this title of any otherwise eligible institution, or the imposition of a civil penalty under paragraph (2)(B) whenever the Secretary has determined, after reasonable notice and opportunity for hearing on the record, that such institution has violated or failed to carry out any provision of this title or any regulation prescribed under this title, except that no period of suspension under this section shall exceed 60 days unless the institution and the Secretary agree to an extension or unless limitation or termination proceedings are initiated by the Secretary within that period of time.

(2)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, or the employability of its graduates, the Secretary may suspend or terminate the eligibility status for any or all programs under this title of any otherwise eligible institution, in accordance with procedures specified in paragraph (1)(D) of this subsection, until the Secretary finds that such practices have been corrected.

(B)(i) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an eligible institution—

(I) has violated or failed to carry out any provision of this title or any regulation prescribed under this title; or

(II) has engaged in substantial misrepresentation of the nature of its educational program, its financial charges, and the employability of its graduates,

the Secretary may impose a civil penalty upon such institution of not to exceed $25,000 for each violation or misrepresentation.

(ii) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

(3) The Secretary shall publish a list of State agencies which the Secretary determines to be reliable authority as to the quality of public postsecondary vocational education in their respective States for the purpose of determining eligibility for all Federal student assistance programs.

(d) DEFINITION OF ELIGIBLE INSTITUTION.—For the purpose of this section, the term "eligible institution" means any such institution described in section 435(a) of this Act.

(20 U.S.C. 1094) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1451; amended April 7, 1986, P.L. 99-272, sec. 16034, 100 Stat 356; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1486.

TRANSFER OF ALLOTMENTS

SEC. 488. Up to 10 percent of the allotment of an eligible institution for a fiscal year under section 413D or 442 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under the other section within the discretion of such institution in order to offer an arrangement of types of aid, including institutional and State aid, which best fits the needs of each individual student. The Secretary shall have no control over such transfer, except as specifically authorized, except for the collection and dissemination of information.

(20 U.S.C. 1095) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1452; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1490; amended June 3, 1987, P.L. 100-50, sec. 15(14), 101 Stat. 357.

ADMINISTRATIVE EXPENSES

SEC. 489. (a) AMOUNT OF PAYMENTS.—From the sums appropriated for any fiscal year for the purpose of the program authorized under subpart 1 of part A, the Secretary shall reserve such sums as may be necessary to pay to each institution with which he has an agreement under section 487, an amount equal to $5 for each student at that institution who receives assistance under subpart 1 of part A. In addition, an institution which has entered into an agreement with the Secretary under subpart 2 of part A or part C (other than section 447), of this title or under part E of this title shall be entitled for each fiscal year which such institution disburses funds to eligible students under any such part to a payment for the purpose set forth in subsection (b). The payment for a fiscal year shall be payable from each such allotment by payment in accordance with regulations of the Secretary and shall be equal to 5 percent of the institution's first $2,750,000 of expenditures plus 4 percent of the institution's expenditures greater than $2,750,000 and less than $5,500,000, plus 3 percent of the institution's expenditures in excess of $5,500,000 during the fiscal year from the sum of its grants to students under subpart 2 of part A, its expenditures during such fiscal year under part C for compensation of students, and the principal amount of loans made during such fiscal year from its student loan fund established under part E, excluding the principal amount of any such loans which the institution has agreed to assign under section 463(a)(6)(B). The payment for a fiscal year for the purpose of subsection (b) with respect to section 447 shall be payable from each allotment under part C in accordance with regulations of the Secretary, and shall be 10 percent of the institution's expenditures during such fiscal year under such section. In addition, the Secretary shall provide for payment to each institution of higher education an amount equal to 100 percent of the costs incurred by the institution in implementing and operating the immigration status verification system under section 484(c).[1]

(b) PURPOSE OF PAYMENTS.—The sums paid to institutions under this part are for the sole purpose of offsetting the administrative costs of the programs described in subsection (a).

(20 U.S.C. 1096) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1453; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1491; amended Nov. 6, 1986, P.L. 99-603, sec. 121(b)(7), 100 Stat. 3391; amended June 3, 1987, P.L. 100-50, sec. 15(15), 101 Stat. 357.

CRIMINAL PENALTIES

SEC. 490. (a) IN GENERAL.—Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title shall be fined not more than $10,000 or imprisoned for not more than 5 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $1,000 and imprisonment shall not exceed one year, or both.

(b) ASSIGNMENT OF LOANS.—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(c) INDUCEMENTS TO LEND OR ASSIGN.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $1,000 or imprisoned not more than one year, or both.

(d) OBSTRUCTION OF JUSTICE.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $10,000 or imprisoned not more than 5 years, or both.

(20 U.S.C. 1097) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1453; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1491.

ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

SEC. 491. (a) ESTABLISHMENT AND PURPOSE.—(1) There is established in the Department an independent Advisory Committee on

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[1] This is a reference to the 484(c) added by P.L. 99-603, which should have been designated as 484(h).

Student Financial Assistance (hereafter in this section referred to as the "Advisory Committee") which shall provide advice and counsel to the Congress and to the Secretary on student financial aid matters.

(2) The purpose of the Advisory Committee is—

(A) to provide extensive knowledge and understanding of the Federal, State, and institutional programs of postsecondary student assistance;

(B) to provide technical expertise with regard to systems of needs analysis and application forms; and

(C) to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students.

(b) INDEPENDENCE OF ADVISORY COMMITTEE.—In the exercise of its functions, powers, and duties, the Advisory Committee shall be independent of the Secretary and the other offices and officers of the Department. The recommendations of the Committee shall not be subject to review or approval by any officer in the executive branch, but may be submitted to the Secretary for comment prior to submission to the Congress in accordance with subsection (f). The Secretary's authority to terminate advisory committees of the Department pursuant to section 448(b) of the General Education Provisions Act ceased to be effective on June 23, 1983.

(c) MEMBERSHIP.—(1) The Advisory Committee shall have 11 members of which—

(A) 3 members shall be appointed by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader,

(B) 3 members shall be appointed by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader, and

(C) 5 members shall be appointed by the Secretary including, but not limited to representatives of States, institutions of higher education, secondary schools, credit institutions, students, and parents.

(2) Not less than 7 members of the Advisory Committee shall be individuals who have been appointed on the basis of technical qualifications, professional standing and demonstrated knowledge in the fields of higher education and student aid administration, need analysis, financing postsecondary education, student aid delivery, and the operations and financing of student loan guarantee agencies.

(d) FUNCTIONS OF THE COMMITTEE.—The Advisory Committee shall—

(1) develop, review, and comment annually upon the system of needs analysis established under sections 411A through 411E and part F of this title;

(2) monitor, apprise, and evaluate the effectiveness of student aid delivery and recommend improvements;

(3) recommend data collection needs and student information requirements which would improve access and choice for eligible students under this title and assist the Department of Education in improving the delivery of student aid and in assessing the impact of legislative and administrative policy proposals;

(4) review and comment upon, prior to promulgation, all regulations affecting programs under this title, including proposed regulations;

(5) recommend to the Congress and to the Secretary such studies, surveys, and analyses of student financial assistance programs, policies, and practices, including the special needs of low-income, disadvantaged, and nontraditional students, and the means by which the needs may be met, but nothing in this section shall authorize the committee to perform such studies, surveys, or analyses;

(6) review and comment upon standards by which financial need is measured in determining eligibility for Federal student assistance programs; and

(7) appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of current student aid information programs.

(e) OPERATIONS OF THE COMMITTEE.—(1) Each member of the Advisory Committee shall be appointed for a term of 3 years, except that, of the members first appointed—

(A) 4 shall be appointed for a term of 1 year;
(B) 4 shall be appointed for a term of 2 years; and
(C) 3 shall be appointed for a term of 3 years,

as designated at the time of appointment by the Secretary.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term of a predecessor shall be appointed only for the remainder of such term. A member of the Advisory Committee shall, upon request, continue to serve after the expiration of a term until a successor has been appointed. A member of the Advisory Committee may be reappointed to successive terms on the Advisory Committee.

(3) The Advisory Committee shall elect a Chairman and a Vice Chairman from among its members.

(4) Six members of the Advisory Committee shall constitute a quorum.

(5) The Advisory Committee shall meet at the call of the Chairman or a majority of its members.

(f) SUBMISSION TO DEPARTMENT FOR COMMENT.—The Advisory Committee may submit its proposed recommendations to the Department of Education for comment for a period not to exceed 30 days in each instance.

(g) COMPENSATION AND EXPENSES.—(1) Members of the Advisory Committee who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Advisory Committee who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Advisory Committee meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(h) PERSONNEL AND RESOURCES.—(1) The Advisory Committee may appoint such personnel as may be necessary by the Chairman without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

(2) In carrying out its duties under the Act, the Advisory Committee shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

(3)(A) The Advisory Committee is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Advisory Committee, upon request made by the Chairman.

(B) The Advisory Committee may enter into contracts for the acquisition of information, suggestions, estimates, and statistics for the purpose of this section.

(4) The Advisory Committee is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(5) The head of each Federal agency shall, to the extent not prohibited by law, cooperate with the Advisory Committee in carrying out this section.

(6) The Advisory Committee is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

(i) AVAILABILITY OF FUNDS.—In each fiscal year not less than $500,000, shall be available from the amount appropriated for each such fiscal year from salaries and expenses of the Department for the costs of carrying out the provisions of this section.

(j) SPECIAL INSTITUTIONAL LENDER STUDY.—

(1) The Advisory Committee shall conduct a thorough study of institutional lender policy. In carrying out the study, the Advisory Committee shall examine, but not be limited to—

(A) the relevance and current applicability of the institutional lender criteria established in section 435(d);

(B) the appropriateness of using default rates for loans made under part E or other institutional criteria to determine institutional participation;

(C) whether or not a portion or all of any special allowance or other payments paid to institutional lenders should benefit need-based scholarship or grant programs;

(D) whether or not institutional lenders should be required to hold loans made to eligible borrowers through graduation or termination of matriculation;

(E) examine the extent and degree to which student access to loan capital would be adversely affected by the restrictions contained in section 435(d)(2); and

(F) assess the potential impact on State secondary markets and lender portfolios if student borrowers at higher cost colleges and universities, who come from higher income families, concentrate their lending with a few large lenders and secondary markets.

(2) The Advisory Committee shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate in carrying out the study required by this subsection.

(3) The Advisory Committee shall, not later than 2 years after the date of enactment of the Higher Education Technical Amendments Act of 1987, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report of the study required by this section.

(20 U.S.C. 1098) Enacted October 3, 1980, P.L. 96-374, sec. 451(a), 94 Stat. 1454; amended August 15, 1983, P.L. 98-79, sec. 11, 97 Stat. 484; amended October 17, 1986, P.L. 99-498, sec. 407(a), 100 Stat. 1492; amended June 3, 1987, P.L. 100-50, sec. 15(16)-(18), 101 Stat. 357.

Student Financial Assistance Technical Amendments Act of 1982[1]

(P.L. 97–301)

AN ACT To require a separate family contribution schedule for Pell Grants for academic years 1983–1984 and 1984–1985, to establish restrictions upon the contents of such schedule, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Student Financial Assistance Technical Amendments Act of 1982".

(20 U.S.C. 1001, note) Enacted October 13, 1982, P.L. 97–301, sec. 1, 96 Stat. 1400.

MAXIMUM PELL GRANT

Sec. 2. Notwithstanding section 411(a)(2) of the Higher Education Act of 1965, the maximum Pell Grant a student may receive for academic year 1983–1984 under such Act shall be $1,800 or 50 percent of the cost of attendance (as defined under section 3 of this Act for academic year 1982–1983) at the institution at which the student is in attendance.

(20 U.S.C. 1070a, note) Enacted October 13, 1982, P.L. 97–301, sec. 2, 96 Stat. 1400.

COST OF ATTENDANCE

Sec. 3. (a) Except as provided in subsection (b), but notwithstanding any other provision of law, the cost of attendance criteria used for calculating eligibility for and the amount of Pell Grants for academic years 1983–1984,,[2] *1984–1985, 1985–1986, 1986–1987, and 1987–1988 shall be the same as those criteria in effect for academic year 1982–1983.*

(b) The cost of attendance allowance for room and board for students not residing at home or in institutionally owned, or operated housing for the academic years 1984–1985, 1985–1986, 1986–1987, and 1987–1988 shall be a standard amount determined by the institution of higher education based on the expenses reasonably incurred by such student for room and board, which shall be at least $1,100 but not more than $1,600.

(20 U.S.C. 1078a, note) Enacted October 13, 1982, P.L. 97–301, sec. 3, 96 Stat 1400; amended August 15, 1983, P.L. 98–79, sec. 4(a), 97 Stat. 479; amended October 19, 1984, P.L. 98–511, sec. 707(1), (2), 98 Stat. 2407; amended October 17, 1986, P.L. 99–498, sec. 408(a)(1), 100 Stat. 1495.

SEPARATION OF PELL GRANT FAMILY CONTRIBUTION SCHEDULE FROM CAMPUS-BASED PROGRAMS

Sec. 4. The Secretary of Education shall establish or approve separate systems of need analysis for the academic years 1983–1984, 1984–1985,,[2] *1985–1986, 1986–1987, and 1987–1988 for the programs authorized under subpart 2 of part A, part C, and part E of title IV of the Higher Education Act of 1965.*

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[1] P.L. 99–498, sec. 408(b), 100 Stat. 1495, reads as follows:
"(b) Repeal.—Effective with respect to any academic year beginning on or after July 1, 1988, the Student Financial Assistance Technical Amendments Act of 1982 is repealed."

[2] So in law.

(20 U.S.C. 1089, note) Enacted October 13, 1982, P.L. 97-301, sec. 4, 96 Stat. 1400; amended August 15, 1983, P.L. 98-79, sec. 4(a), 97 Stat. 479; amended October 19, 1984; P.L. 98-511, sec. 707(3), 98 Stat. 2407; amended October 17, 1986, P.L. 99-498, sec. 408(a)(1), 100 Stat. 1495.

PELL GRANT FAMILY CONTRIBUTION SCHEDULES FOR ACADEMIC YEARS 1984–1985 AND 1985–1986

SEC. 5. (a) Except as provided in subsections (b) and (c), the family contribution schedule for academic year 1983–1984 for Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such grants for each of the academic years 1984–1985, 1985–1986, 1986–1987, and 1987–1988.

(b)(1) Each of the amounts allowed as an offset for family size for dependent and independent students in the family contribution schedule for each of the academic years 1984–1985, 1985–1986, 1986–1987, and 1987–1988 shall be computed by increasing (or decreasing) the comparable amount (for the same family size) in the family contribution schedule for the preceding academic year (as set by this section) by a percentage equal to the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor, and rounding the result to the nearest $100.

(2) For purposes of paragraph (1) of this subsection, the percentage increase (or decrease) in the Consumer Price Index for Wage Earners and Clerical Workers is the change, expressed as a per centum, between the arithmetic mean of such index—

(A) for the period from October 1, 1981, through September 30, 1982, and the arithmetic mean of such index for the period from October 1, 1982, through September 30, 1983, in the case of the academic year 1984–1985;

(B) for the period from October 1, 1982, through September 30, 1983, and the arithmetic mean of such index for the period from October 1, 1983, through September 30, 1984, in the case of the academic year 1985–1986;

(C) for the period from October 1, 1983, through September 30, 1984, and the arithmetic mean of such index for the period from October 1, 1984, through September 30, 1985, in the case of academic year 1986–1987; and

(D) for the period from October 1, 1984, through September 30, 1985, and the arithmetic mean of such index for the period from October 1, 1985, through September 30, 1986, in the case of academic year 1987–1988.

(3) The Secretary of Education shall publish in the Federal Register the changes in amounts allowed as an offset for family size as a consequence of the requirements of this subsection immediately after publication by the Secretary of Labor of the Consumer Price Index for September 1983 (with respect to academic year 1984–1985), immediately after such publication for September 1984 (with respect to academic year 1985–1986), immediately after such publication for September 1985 (with respect to academic year 1986–1987), and immediately after such publication for September 1986 (with respect to academic year 1987–1988).

(c) For purposes of subsection (a), the family contribution schedule for academic year 1983–1984 shall be modified by the Secretary of

Education for use for each of academic years 1984–1985, 1985–1986, 1986–1987, and 1987–1988—

(1) to reflect the most recent and relevant data, and

(2) to comply with section 482(b)(3) of the Higher Education Act of 1965 with respect to the treatment of payments under title 38 of the United States Code.

(d) The modified family contribution schedule under this section shall be published in the Federal Register—

(1) not later than fifteen days after the date of enactment of the Student Loan Consolidation and Technical Amendments Act of 1983 for academic year 1984–1985;

(2) not later than April 1, 1984, for academic year 1985–1986;

(3) not later than April 1, 1985, for academic year 1986–1987; and

(4) not later than April 1, 1986, for academic year 1987–1988.

(20 U.S.C. 1070a, note) Enacted October 13, 1982, P.L. 97–301, sec. 5, 96 Stat. 1400; amended August 15, 1983, P.L. 98–79, sec. 4(a), 97 Stat. 480; amended October 19, 1984, P.L. 98–511, sec. 707(3)–(6), 98 Stat. 2407; amended October 17, 1986, P.L. 99–498, sec. 408(a) (2), (4), (5), 100 Stat. 1495.

INDEPENDENT STUDENT DETERMINATION

Sec. 6. Notwithstanding any rule or regulation, the criteria for the determination of independent student status, prescribed under section 482(c)(2) of the Higher Education Act of 1965, in effect for academic year 1982–1983 shall be the criteria for such determinations for each of the academic years 1983–1984, 1984–1985,,[1] 1985–1986, 1986–1987, and 1987–1988.

(20 U.S.C. 1070a, note) Enacted October 13, 1982, P.L. 97–301, sec. 6, 96 Stat. 1401, 1402; amended August 15, 1983, P.L. 98–79, sec. 4(a), 97 Stat. 481; amended October 19, 1984, P.L. 98–511, sec. 707(3), 98 Stat. 2407; amended October 17, 1986, P.L. 99–498, sec. 408(a)(1), 100 Stat. 1495.

VETERANS ELIGIBILITY FOR PELL GRANTS FOR ACADEMIC YEAR 1982–1983

Sec. 7. Notwithstanding any other provisions of law, such sums as may be necessary not to exceed $30,000,000 of the amount appropriated by Public Law 97–257 for Pell Grants shall be available for the purpose of restoring eligibility for Pell Grants to individuals adversely affected by the modification, pursuant to paragraphs (4) and (5) of section 124 of Public Law 97–92, of the family contribution schedule with respect to the treatment of payments under title 38, United States Code, to such individuals. For the purposes of determining eligibility and amount of Pell Grant awards under this section, only one-third of the benefits received under such title 38 shall be considered as student financial assistance. The Secretary of Education shall take such steps as may be necessary to notify such individuals of restored eligibility and to make appropriate allocations of the reserved sum.

(20 U.S.C. 1070a, note) Enacted October 13, 1982, P.L. 97–301, sec. 7, 96 Stat. 1402.

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[1] So in law.

GUARANTEED STUDENT LOAN FAMILY CONTRIBUTION SCHEDULE FOR THE PERIOD JULY 1, 1983, THROUGH JUNE 30, 1984

SEC. 9. (a) Except as provided in subsections (b) and (c), the family contribution schedule for the period of instruction from July 1, 1983, through June 30, 1984, from July 1, 1984, through June 30, 1985, and from July 1, 1985, through June 30, 1986, from July 1, 1986, through June 30, 1987, and from July 1, 1987, through June 30, 1988, from July 1, 1988, through June 30, 1989, and from July 1, 1989, through June 30, 1990,[2] *for loans made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 shall be the family contribution schedule for such loans for the period of instruction from July 1, 1982, through June 30, 1983.*

(b) For purposes of subsection (a), the family contribution schedule for the period of instruction from July 1, 1982, through June 30, 1983, shall be modified by the Secretary of Education for use for each of the periods of instruction (beginning after June 30, 1983) described in subsection (a) to reflect the most recent and relevant data.

(c) The modified family contribution schedule under this section shall be submitted not later than—

(1) April 1, 1983, for the period of instruction from July 1, 1983, through June 30, 1984;

(2) April 1, 1984, for the period of instruction from July 1, 1984, through June 30, 1985;

(3) April 1, 1985, for the period of instruction from July 1, 1985, through June 30, 1986; and

(4) April 1, 1986, for the period of instruction from July 1, 1986, through June 30, 1987;

and shall otherwise be subject to the provisions of section 482(a) of the Higher Education Act of 1965.

(20 U.S.C. 1078, note) Enacted October 13, 1982, P.L. 97-301, sec. 9, 96 Stat. 1403; amended August 15, 1983, P.L. 98-79, sec. 4(b), 97 Stat. 481; amended October 19, 1984, P.L. 98-511, sec. 707(7), (8), 98 Stat. 2407, 2408; amended April 7, 1986, P.L. 99-272, sec. 16018(b), 100 Stat. 348; amended October 17, 1986, P.L. 99-498, sec. 408 (6), (7), 100 Stat. 1495.

SUPPLEMENTAL EDUCATION OPPORTUNITY GRANT APPORTIONMENT FOR FISCAL YEARS 1983, 1984, AND 1985

SEC. 10. Notwithstanding section 413D(a) of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall apportion the sums appropriated pursuant to section 413A(b) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 413A(b) for the fiscal year 1981.

(20 U.S.C. 1070b-3, note) Enacted October 13, 1982, P.L. 97-301, sec. 10, 96 Stat. 1403.

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[2] Amendment made by P.L. 99-498 is not executed since it referred to "1999" instead of "1990". It would have deleted the phrase "from July 1, 1988, through June 30, 1989, and from July 1, 1989, through June 30, 1990,".

COLLEGE WORK-STUDY ALLOTMENT FOR FISCAL YEARS 1983, 1984, AND 1985

Sec. 11. Notwithstanding subsections (a), (b), (c), and (e) of section 442 of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall allot the sums appropriated pursuant to section 441(b) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's allotment bears the same ratio to the total amount appropriated as that State's allotment in fiscal year 1981 bears to the total amount appropriated pursuant to section 441(b) for the fiscal year 1981.

(42 U.S.C. 2752, note) Enacted October 13, 1982, P.L. 97-301, sec. 11, 96 Stat. 1403.

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT FOR FISCAL YEARS 1983, 1984, AND 1985

Sec. 12. (a) Notwithstanding subsections (a) and (b) of section 462 of the Higher Education Act of 1965, if in fiscal year 1983, fiscal year 1984, or fiscal year 1985 the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1981, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1981 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1981.

(b) Notwithstanding subsections (a) and (b) of section 462 of the Higher Education Act of 1965, if in the fiscal year 1986 the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1980, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1980 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1980.

(20 U.S.C. 1087bb, note) Enacted October 13, 1982, P.L. 97-301, sec. 12, 96 Stat. 1404; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 908.

Higher Education Act of 1965 (Continued)

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

STATEMENT OF PURPOSE; APPLICABILITY

Sec. 501. It is the purpose of this title—

(1) to encourage the establishment and maintenance of programs that provide teacher training to individuals who are moving to careers in education from other occupations;

(2) to promote university partnerships with local education agencies serving at-risk students, providing stronger linkages between teachers and such students, and with local labor, business, and professional associations;

(3) to provide assistance to our Nation's teaching force for the continued improvement of their professional skills and expansion of their subject matter expertise, including pre-school and early childhood education specialists;

(4) to improve the leadership and administrative skills of elementary and secondary school administrators;

(5) to encourage academically qualified students to become teachers through scholarship assistance; and

(6) to encourage States to assess their need for teachers and to plan for meeting current and projected teacher shortages.

(20 U.S.C. 1101) Reenacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1495.

AUTHORIZATION OF APPROPRIATIONS

SEC. 502. (a) MID-CAREER TEACHER TRAINING PROGRAMS.—For part A, there are authorized to be appropriated $3,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(b) SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS.—For part B, there are authorized to be appropriated $15,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(c) PROFESSIONAL DEVELOPMENT AND LEADERSHIP PROGRAMS.—(1) For subpart 1 of part C, there are authorized to be appropriated $15,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(2) For subpart 2 of part C, there are authorized to be appropriated $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(d) TEACHER SCHOLARSHIPS AND FELLOWSHIPS.—(1) For subpart 1 of part D, there are authorized to be appropriated $13,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(2) For subpart 2 of part D, there are authorized to be appropriated $2,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(e) TASK FORCES ON TEACHER EDUCATION.—For part E, there are authorized to be appropriated $1,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(20 U.S.C. 1101a) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1496.

PART A—MIDCAREER TEACHER TRAINING FOR NONTRADITIONAL STUDENTS

STATEMENT OF PURPOSE

SEC. 511. It is the purpose of this part to encourage institutions of higher education with schools or departments of education to establish and maintain programs that will provide teacher training to individuals who are moving to a career in education from another occupation.

(20 U.S.C. 1103) Reenacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1496.

SELECTION PROCEDURES

SEC. 512. From the funds available for this part, the Secretary shall make grants to institutions of higher education on the basis of the competitive selection among qualifying applications. Institutions selected as recipients shall be awarded (1) an initial planning grant for use during the first 2 fiscal years after selection, and (2) for institutions demonstrating successful performance with the planning grant, a renewal grant for use during not more than 2 additional years.

(20 U.S.C. 1103a) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1496.

APPLICATIONS

SEC. 513. (a) CONTENTS OF APPLICATIONS.—Applications for grants under this part shall demonstrate that—

(1) the applicant will establish and maintain a program of midcareer teacher retraining designed to prepare individuals for teacher certification requirements who already have a baccalaureate or advanced degree and job experience in education-related fields of study, including pre-school and early childhood education;

(2) the applicant has designed a program which includes at least the following elements:

(A) a screening mechanism to assure that individuals who are admitted to the program possess the current subject matter knowledge and the characteristics that would make them likely to succeed as classroom teachers;

(B) a clear set of program goals and expectations which are communicated to participants; and

(C) a curriculum that, when successfully completed, will provide participants with the skills and credentials needed to teach in specific subject areas, as well as a realistic perspective on the educational process;

(3) the program has been developed with the cooperation and assistance of the local business community;

(4) the program will be operated under a cooperative agreement between the institution and one or more State or local educational agencies; and

(5) the program will be designed and operated with the active participation of qualified classroom teachers, including

early childhood education specialists, and will include an inservice training component and follow-up assistance.

(b) REVIEW OF APPLICATIONS.—Applications for grants under this part shall be reviewed by a panel of experts in teacher training designated by the Secretary. The Secretary shall, to the extent of available funds, select at least one applicant from each of the 10 regions served by the Department and assure that programs offered reflect all significant areas of national need in which shortages exist.

(20 U.S.C. 1103b) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1497.

AMOUNT OF GRANTS

SEC. 514. The initial planning grant to an institution of higher education under this part shall not exceed $100,000 for the 2 years for which it is available. The renewal grant to an institution under this part shall not exceed $50,000 for each of the 2 years for which it is available.

(20 U.S.C. 1103c) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1497.

REPORTS AND INFORMATION

SEC. 515. Each institution of higher education that receives a grant under this part shall submit to the Secretary such reports and other information on the program it conducts under this part as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education for the purpose of promoting greater use of midcareer teacher training programs without direct Federal financial assistance.

(20 U.S.C. 1103d) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1497.

PART B—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

PURPOSE

SEC. 521. It is the purpose of this part to encourage partnerships between institutions of higher education and secondary schools serving low-income students, to support programs that improve the academic skills of public and private nonprofit secondary school students, increase their opportunity to continue a program of education after secondary school and improve their prospects for employment after secondary school.

(20 U.S.C. 1105) Reenacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1498.

PARTNERSHIP AGREEMENT

SEC. 522. (a) PARTNERSHIP AGREEMENT.—To be eligible for a grant under this part, an institution of higher education and a local education agency must enter into a written partnership agreement. A partnership may include businesses, labor organizations, professional associations, community-based organizations, or other private or public agencies or associations. All partners shall sign the agreement.

(b) CONTENTS OF AGREEMENT.—The agreement shall include—

(1) a listing of all participants in the partnerships;

(2) a description of the responsibilities of each participant in the partnership; and

(3) a listing of the resources to be contributed by each participant in the partnership.

(20 U.S.C. 1105a) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1498.

GRANTS

SEC. 523. (a) DIVISION BETWEEN SCHOOL-YEAR AND SUMMER PROGRAMS.—From the funds appropriated for this part pursuant to section 502(b), the Secretary shall reserve 65 percent to carry out programs operating during the regular school year and 35 percent to carry out programs operating during the summer.

(b) AMOUNT AND USE OF GRANTS.—From such funds, the Secretary shall make grants of no less than $250,000 and no more than $1,000,000. The grants may be used by the partnership for programs that—

(1) use college students to tutor secondary school students and improve their basic academic skills;

(2) are designed to improve the basic academic skills of secondary school students;

(3) are designed to increase the understanding of specific subjects of secondary school students;

(4) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

(5) are designed to increase the prospects for employment after graduation of secondary school students.

(c) PREFERENCES.—In making grants under this part, the Secretary shall give a preference to—

(1) programs which will serve predominantly low-income communities;

(2) partnerships which will run programs during the regular school year and the summer; and

(3) programs which will serve educationally disadvantaged students; potential dropouts; pregnant, adolescent, and teen parents; or children of migratory agricultural workers or of migratory fishermen.

(20 U.S.C. 1105b) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1498.

APPLICATION FOR GRANTS

SEC. 524. (a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under this part shall submit an application to the Secretary.

(b) CONTENTS OF APPLICATION.—The application shall include—

(1) the written and signed partnership agreement;

(2) a listing of the public and private nonprofit secondary school or schools to be involved in the program;

(3) a description of the programs to be developed and operated by the partnership;

(4) assurances to the Secretary that—

(A) the partnership will establish a governing body including one representative of each participant in the partnership;

(B) Federal funds will provide no more than 70 percent of the cost of the project in the first year, 60 percent of such costs in the second year, and 50 percent of such costs in the third year and any subsequent year;

(C) a local educational agency receiving funds under this subpart shall not reduce its combined fiscal effort per student or its aggregate expenditure on education; and

(D) a local educational agency receiving funds under this part shall use the Federal funds so as to supplement and, to the extent practical, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students participating in the project, and in no case may funds be used to supplant such non-Federal funds; and

(5) provide such information and meet such conditions as may be required by the Secretary.

(20 U.S.C. 1105c) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1499.

COMMUNITY COLLEGE PILOT PROJECT

Sec. 525. (a) Program Authorized.—In addition to the grants awarded under section 523, the Secretary is authorized to award 4 grants for pilot community college partnership projects under this section.

(b) Partnership Agreements.—To be eligible for a grant under this section, a community college shall enter into a partnership agreement in accordance with section 522 with a local educational agency and at least one local business or industry.

(c) Amount and Use of Grants.—Grants under this section shall be no less than $250,000. The grants may be used by the partnership for programs that—

(1) use college students to tutor secondary school students and improve their basic academic skills;

(2) are designed to improve the basic academic skills of secondary school students;

(3) are designed to increase the understanding of specific subjects of secondary school students;

(4) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

(5) are designed to increase the prospects for employment after graduation of secondary school students.

(d) Application.—To receive a grant under this section, a community college shall submit an application in accordance with section 524(b).

(e) Award of Grants.—In making awards under this section, the Secretary shall give preference to applications indicating that the business or industry partner is engaged in technological or aerospace activities.

(f) Eligible Institutions.—The institutions which may be awarded grants under this section are—

(1) the Wayne County Community College of Wayne County, Michigan;

(2) the Community College of Vermont;

(3) the Compton Community College of Compton, California; and

(4) the Metropolitan Community College of Kansas City, Missouri.

(g) REPORTS AND INFORMATION.—Each community college that receives a grant under this subpart for establishing pilot projects shall submit to the Secretary such reports and other information as is requested in order to evaluate program effectiveness and to disseminate information on exemplary programs to other community colleges, area vocational-technical schools, and other institutions of higher education, for the purposes of promoting greater use of university-secondary school partnerships without direct Federal financial assistance.

(20 U.S.C. 1105d) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1499.

PART C—PROFESSIONAL DEVELOPMENT AND LEADERSHIP PROGRAMS[1]

SUBPART 1—PROFESSIONAL DEVELOPMENT RESOURCE CENTERS

PROGRAM AUTHORITY AND PURPOSE

SEC. 531. (a) AUTHORITY.—(1) The Secretary is authorized to make grants under this subpart to pay the Federal share of programs to assist teachers from public and private nonprofit schools in the continuous improvement of their professional skills and the expansion and updating of their subject matter expertise by establishing professional development resource centers for teachers.

(2) The Federal share for each fiscal year shall be 50 percent.

(b) PURPOSE.—It is the purpose of this subpart to assist in the establishment of professional development resource centers that will—

(1) help teachers make effective use of educational tools including understanding new technologies and their application;

(2) enhance teachers' subject matter expertise;

(3) help teachers learn new classroom management techniques;

(4) help teachers learn and apply the latest research on learning and teaching, including pre-school and early childhood education and development; and

(5) help teachers to apply creative approaches toward achieving instructional goals, including making the best use of available community resources.

(20 U.S.C. 1107) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1500.

GEOGRAPHICAL DISTRIBUTION OF GRANTS

SEC. 532. In making grants under this subpart, the Secretary shall ensure that eligible applicants within each State receive sufficient funds to plan, establish, or operate at least one professional development resource center within the State in each fiscal year.

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[1] So in original. Should be "program".

(20 U.S.C. 1107a) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1501.

GRANT REQUIREMENTS

SEC. 533. (a) ELIGIBLE APPLICANTS.—The Secretary is authorized to make grants to local educational agencies or consortia of local educational agencies, in accordance with the provisions of this section, to assist such agencies in planning, establishing, and operating professional development resource centers.

(b) DEFINITION OF CENTER.—For the purpose of this part, the term "professional development resource centers" means any year-round program operated by a local educational agency, a combination of such agencies, or an educational service agency which serves teachers from public and private nonprofit schools, including pre-school and early childhood educational specialists, in a State or from an area or community within a State. Through the centers, teachers, with the assistance of such consultants and experts as may be necessary, including expertise available at institutions of higher education, shall conduct activities to advance the goal of professional excellence and to improve teaching skills for the teachers they serve.

(c) USE OF FUNDS.—Grants under this subpart may be used for—

(1) developing and disseminating curricula designed to meet the educational needs of students in pre-school and kindergarten through grade 12, in the community, area, or State being served, including the use of educational research findings or new or improved methods, practices, and techniques in the development of such curricula, and including the use of technology and telecommunications;

(2) providing training to enable teachers to better meet the educational needs of students, including pre-school students, and to familiarize teachers with developments in curriculum, testing, and educational research including the manner in which the research can be used to improve classroom instruction;

(3) providing for dissemination of information to those served by the center and to other professional development resource centers nationally about the activities and services of the centers;

(4) bringing together teachers and materials from various school sites to serve as resources for teachers using the center;

(5) encouraging collaborative activities between pre-school, elementary and secondary school teachers and faculty at institutions of higher education;

(6) encouraging the application of institutional and community resources to the goal of improving the quality of classroom instruction; and

(7) providing professional development opportunities for teachers of special population groups (pre-school, handicapped children, limited English proficient children, educationally and economically disadvantaged children) in rural settings.

(20 U.S.C. 1107b) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1501.

PROFESSIONAL DEVELOPMENT POLICY BOARD

SEC. 534. Each professional development resource center shall be planned and operated under the supervision of a professional development policy board, the majority of which shall be representatives or designees of the public and private nonprofit, pre-school, elementary and secondary classroom teachers to be served by such center. Such board shall also include individuals representative of, or designated by, school administrators, the school board (or boards) of the local educational agency (or agencies) served by such center, local business, and at least one representative designated by institutions of higher education, when such institutions are located within reasonable proximity of the center, including (but not limited to) institutions that have departments, schools, or colleges of education.

(20 U.S.C. 1107c) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1502.

SUBMISSION AND APPROVAL OF APPLICATIONS

SEC. 535. (a) SUBMISSION.—(1) Any local educational agency or any consortium of local educational agencies including educational service agencies, desiring to receive a grant under this subpart shall make application therefor at such time, in such manner, and containing or accompanied by such information, as the Secretary may by regulation require. Each application shall be submitted through the State educational agency of the State in which the applicant is located. Each such State agency shall review the application, make comments thereon, and recommend each application the State agency finds should be approved. The recommendations of the State education agency shall be taken into consideration by the Secretary in awarding grants under this part.

(2) Each State education agency, in reviewing local educational agency applications for a grant under this subpart, shall seek to assure an equitable within-State geographical distribution of center grant funds so that both large urban and small rural school districts are served.

(b) MINIMUM REQUIREMENTS.—A grant under this subpart may be made only if the application provides—

(1) satisfactory assurances that the program designed for the professional development resource center is based on a thorough assessment of instructional and professional development needs identified by the teachers to be served, including early childhood educational specialists, and establishes goals for the center derived from such assessment;

(2) satisfactory assurances that the program the center plans to provide will meet the needs of the teachers served, including assurances that center activities will lead to in-depth and incremental knowledge and skill development;

(3) a description of the activities planned to meet the center's goals;

(4) procedures for the conduct of a yearly evaluation of center activities;

(5) satisfactory assurances that the center will employ a full-time center director who has had classroom teaching experience and other staff as may be necessary;

(6) satisfactory assurances that the applicant will pay the non-Federal share of the cost of the program for which assistance is sought and that 50 percent of such non-Federal share shall be paid by the State educational agency and 50 percent of the non-Federal share shall be from local resources, including institutions of higher education and other public and private non-Federal sources; and

(7) satisfactory assurances that the facilities of the center will not be used for the purpose of influencing the result of an election to an office in Federal, State, or local government or for the purpose of supporting or opposing any campaign for such office.

(c) SELECTION PROCEDURES.—(1) In approving any application under this subpart, the Secretary shall take into account the resources which the applicant will provide in addition to Federal funds provided under this or any other Federal program.

(2) In approving applications under this subpart, the Secretary shall substantially involve teachers, including early childhood educational specialists, in reviewing and recommending programs for funding.

(d) SUBCONTRACTING.—Any local educational agency having an application approved under this subpart may contract with an institution of higher education to carry out activities under, or provide technical assistance in connection with, such application.

(e) RESERVATION FOR DIRECT EXPENDITURES.—Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that professional development resource centers be operated by local educational agencies, 10 percent of the funds expended under this subpart may be expended directly by the Secretary to make grants to institutions of higher education to operate professional development resource centers, subject to the other provisions of this subpart.

(20 U.S.C. 1107d) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1502.

SUBPART 2—LEADERSHIP IN EDUCATIONAL ADMINISTRATION DEVELOPMENT

PURPOSE; INTENTION; REGULATIONS

SEC. 541. (a) PURPOSE.—It is the purpose of this subpart to improve the level of student achievement in public and private nonprofit elementary and secondary schools through the enhancement of the leadership skills of school administrators by establishing technical assistance centers for each State to promote the development of the leadership skills of public and private nonprofit elementary and secondary school administrators with particular emphasis upon increasing access for minorities and women to administrative positions.

(b) INTENTION.—It is the intention of Congress that grantees seeking to establish technical assistance and training centers should design programs which upgrade the skills of elementary and secondary school administrators in—

(1) enhancing the schoolwide learning environment by assessing the school climate, setting clear goals for improvement,

and devising strategies for completing manageable projects with measurable objectives;

(2) evaluating the school curriculum in order to assess its effectiveness in meeting academic goals;

(3) developing skills in instructional analysis to improve the quality of teaching through classroom observation and supervision;

(4) mastering and implementing objective techniques for evaluating teacher performance; and

(5) improving communication, problemsolving, student discipline, time-management, and budgetary skills.

(c) Regulations.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out this subpart.

(20 U.S.C. 1109) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1503; amended June 3, 1987, P.L. 100-50, sec. 16(1), 101 Stat. 358.

ALLOCATION OF APPROPRIATIONS

Sec. 542. Of the amount appropriated for this subpart for fiscal year 1987 or any succeeding fiscal year, the Secretary shall make available an amount as may be necessary for establishing and operating a technical assistance center in each State, but not less than $150,000 for each State.

(20 U.S.C. 1109a) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1504; amended June 3, 1987, P.L. 100-50, sec. 16(2), 101 Stat. 358.

TECHNICAL ASSISTANCE CENTERS

Sec. 543. (a) Eligible Grants Recipients.—The Secretary shall, subject to the availability of funds pursuant to section 542, award grants to local educational agencies, intermediate school districts, State educational agencies, institutions of higher education, private management organizations, or nonprofit organizations (or consortium of such entities) for the establishment and operation of training centers in each State in accordance with the requirements of this section and section 544.

(b) Grant Requirements.—Each grant awarded under subsection (a) shall require the grantee—

(1) to make the services of the technical assistance center available to school administrators from any of the public and private nonprofit schools within the State served by that grantee;

(2) to collect information on school leadership skills;

(3) to assess the leadership skills of individual participants based on established effective leadership criteria;

(4) to conduct training programs on leadership skills for new school administrators and to conduct training seminars on leadership skills for practicing school administrators, with particular emphasis on women and minority administrators;

(5) to operate consulting programs to provide personnel within school districts with advice and guidance on leadership skills;

(6) to maintain training curricula and materials on leadership skills drawing on expertise in business, academia, civilian

and military governmental agencies, and existing effective schools;

(7) to conduct programs which—

(A) make available executives from business, scholars from various institutions of higher education, and practicing school administrators; and

(B) offer internships in business, industry, and effective school districts to school administrators,

for the purpose of promoting improved leadership skills of such administrators;

(8) to disseminate information on leadership skills associated with effective schools; and

(9) to establish model administrator projects.

(c) SELECTION OF GRANTEES.—In making a selection among applicants for any grant under this section, the Secretary shall take into account whether the applicant, if selected, would be able to operate its programs in a manner which would emphasize development of leadership skills identified by graduate schools of management and graduate schools of education.

(20 U.S.C. 1109b) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1504; amended June 3, 1987, P.L. 100-50, sec. 16(3), 101 Stat. 358.

GENERAL CRITERIA FOR GRANTS

SEC. 544. (a) GRANT REQUIREMENTS.—The following criteria shall apply to each grant under this subpart:

(1) The grant shall assure the involvement of private sector managers and executives in the conduct of such programs.

(2) The grant shall contain assurances of an ongoing organizational commitment to carrying out the purposes of this subpart through (A) obtaining matching funds for such programs in cash or in kind at least equal in amount to the amount of funds provided under this subpart, (B) making in-kind contributions to such programs, (C) demonstrating a commitment to continue to operate such programs after expiration of funding under this subpart, and (D) organizing a policy advisory committee including (but not limited to) representatives from business, private foundations, private nonprofit schools, and local and State educational agencies.

(3) The grant shall indicate the level of development of human relations skills which its programs will instill by (A) identifying the credentials of the staff responsible for such development; (B) describing the manner in which such skills will be developed; and (C) describing the manner in which the program deals with human relations issues facing education administrators.

(4) The grant shall establish a system for the evaluation of the programs conducted.

(b) DURATION OF GRANT.—Each grant under this subpart shall be for a term of 3 years subject to the availability of appropriations. Such grant shall not be renewable, except that a single 3-year extension may be granted if the grantee agrees to maintain the programs with assistance under this part reduced by one-half.

(20 U.S.C. 1109c) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1505; amended June 3, 1987, P.L. 100-50, sec. 16(4), 101 Stat. 359.

DEFINITIONS

SEC. 545. For the purpose of this subpart—

(1) the term "school administrator" means a principal, assistant principal, district superintendent, and other local school administrators;

(2) the term "leadership skills" includes, but is not limited to, managerial, administrative, evaluative, communication and disciplinary skills and related techniques; and

(3) the term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1109d) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1505; amended June 3, 1987, P.L. 100-50, sec. 16(5), 101 Stat. 359.

PART D—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

SUBPART 1—CONGRESSIONAL TEACHER SCHOLARSHIP PROGRAMS

PURPOSE

SEC. 551. (a) PURPOSE.—It is the purpose of this subpart to make available, through grants to the States, scholarships during fiscal years 1987 through 1991 to a maximum of 10,000 individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the pre-school, elementary or secondary level.

(b) DESIGNATION.—Scholarships awarded under this subpart shall be referred to as the "Paul Douglas Teacher Scholarships".

(20 U.S.C. 1111) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1506; amended June 3, 1987, P.L. 100-50, sec. 17(a), 101 Stat. 359.

ALLOCATION AMONG STATES

SEC. 552. (a) PER CAPITA ALLOCATION.—From the sums appropriated for this subpart pursuant to section 502(d) for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the number of persons in that State bears to the number of persons in all States.

(b) USE OF CENSUS DATA.—For the purpose of this section, the number of persons in a State and in all States shall be determined by the most recently available data from the United States Census Bureau.

(20 U.S.C. 1111a) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1506.

GRANT APPLICATIONS

SEC. 553. (a) SUBMISSION OF APPLICATIONS.—The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 551 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) CONTENT OF APPLICATIONS.—The Secretary shall approve an application under this subpart only if the application—

(1) describes the selection criteria and procedures to be used by the State in the selection of scholarships under this part which satisfy the provisions of this part;

(2) designates the State agency which administers the program under subpart 3 of part A of title IV, relating to State student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

(3) describes the outreach effort the State agency intends to use to publicize the availability of Congressional Teacher Scholarships to high school students in the State;

(4) provides assurances that each recipient eligible under section 555(b) of this part who receives a Congressional Teacher Scholarship shall enter into an agreement with the State agency under which the recipient shall—

(A) within the 10-year period after completing the postsecondary education for which the Congressional Teacher Scholarship was awarded, teach, for a period of not less than 2 years for each year for which assistance was received, in a public or private nonprofit preschool, elementary school, or secondary school in any State, or in a public or private nonprofit education program in any State, except that, in the case of individuals who teach in a shortage area established by the Secretary pursuant to section 428(b)(4), the requirements of this subparagraph shall be reduced by one-half;

(B) provide the State agency evidence of compliance with section 556 as required by the State agency; and

(C) repay all or part of a Congressional Teacher Scholarship received under section 554 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 557, in the event that the conditions of subparagraph (A) are not complied with, except as provided for in section 558;

(5) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required, including—

(A) a description of the procedures required to be established under paragraph (6); and

(B) a description of the appeals procedures required to be established under paragraph (7) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

(6) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (4)(A) will have the repay-

ment requirements reduced or eliminated consistent with the provisions of sections 557 and 558;

(7) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part;

(8) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds or who express a willingness or desire to teach in schools having less than average academic results or serving large numbers of economically disadvantaged students; and

(9) provides assurances that Congressional Teacher Scholarships will be awarded without regard to sex, race, handicapping condition, creed, or economic background.

(c) SELECTION CRITERIA AND PROCEDURES.—The selection criteria and procedures to be used by the State shall reflect the present and projected teacher needs of the State, including the demand for and supply of early childhood and elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

(d) SOLICITATION OF VIEWS ON SELECTION CRITERIA AND PROCEDURES.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of State and local educational agencies, private educational institutions, and other interested parties. Such views—

(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with training in specific academic disciplines, including early childhood education and development); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

(20 U.S.C. 1111b) Reenacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1506; amended June 3, 1987, P.L. 100-50, sec. 17(b), 101 Stat. 359.

AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE

SEC. 554. (a) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (c), each Congressional Teacher Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become a pre-school, elementary or secondary teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

(c) ASSISTANCE NOT TO EXCEED NEED.—Congressional Teacher Scholarship assistance awarded by the statewide panel established pursuant to section 555 to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending. If the amount of the Congressional Teacher Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Congressional Teacher Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

(d) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—No individual shall receive an award under the Congressional Teacher Scholarship established under this subpart, in any academic year, which exceeds the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending.

(20 U.S.C. 1111c) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1508.

SELECTION OF CONGRESSIONAL TEACHER SCHOLARS

SEC. 555. (a) SELECTION BY STATEWIDE PANELS.—Congressional Teacher Scholars shall be selected by a seven-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, including preschool teachers, and parents.

(b) ELIGIBILITY FOR SELECTION; SELECTION CRITERIA AND PROCEDURES.—Selections of Congressional Teacher Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 10 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Congressional Teacher Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

(20 U.S.C. 1111d) Reenacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1508.

SCHOLARSHIP CONDITIONS

SEC. 556. Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is—

(1) enrolled as a full-time student in an accredited postsecondary institution;

(2) pursuing a course of study leading to teacher certification; and

(3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

(20 U.S.C. 1111e) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1509.

SCHOLARSHIP REPAYMENT PROVISIONS

SEC. 557. Recipients found by the State agency to be in noncompliance with the agreement entered into under section 553(b)(4) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of this title[1]) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

(20 U.S.C. 1111f) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1509; amended June 3, 1987, P.L. 100-50, sec. 17(c), 101 Stat. 359.

EXCEPTIONS TO REPAYMENT PROVISIONS

SEC. 558. (a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 553(b)(4)(C) during any period in which the recipient—

(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit pre-school, elementary or secondary school or a public or private nonprofit preschool,[2] education program for a single period not to exceed 27 months; or

(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

(20 U.S.C. 1111g) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1509; amended June 3, 1987, P.L. 100-50, sec. 17(d), 101 Stat. 359.

FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW

SEC. 559. (a) DISAPPROVAL HEARING REQUIRED.—The Secretary shall not finally disapprove any application for a State program submitted under section 553, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

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[1] So in original. Should be "part B of title IV of this Act".
[2] So in original.

(b) SUSPENSION OF ELIGIBILITY.—Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

(c) COURT REVIEW.—(1) If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(20 U.S.C. 1111h) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1510.

SUBPART 2—CHRISTA MCAULIFFE FELLOWSHIP PROGRAM

DECLARATION OF PURPOSE; DESIGNATION

SEC. 561. (a) PURPOSE.—It is the purpose of this subpart to establish a national fellowship program for outstanding teachers.

(b) DESIGNATION.—Individuals awarded fellowships under this subpart shall be known as "Christa McAuliffe Fellows".

(20 U.S.C. 1113) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1510.

USE OF FUNDS FOR FELLOWSHIPS AND ADMINISTRATION

SEC. 562. Funds appropriated for any fiscal year for fellowships to outstanding teachers under this subpart shall be used to award fellowships in accordance with the requirements of this subpart, except that not more than 2.5 percent of such funds shall be used for purposes of administering this subpart.

(20 U.S.C. 1113a) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1511.

CHRISTA MCAULIFFE FELLOWSHIPS

SEC. 563. (a) AWARD DISTRIBUTION AND AMOUNTS.—(1) Except as provided under paragraph (3), sums available for the purpose of this subpart shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Christa McAuliffe teacher fellows may not receive an award for 2 consecutive years. Subject to the repayment provisions of section 566, Christa McAuliffe teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least 2 years following the fellowship award.

(3) If the appropriation for this subpart under section 502(d) is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 564.

(b) USE OF AWARDS.—Christa McAuliffe teacher fellows may use such awards for such projects for improving education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; or (4) model teacher programs and staff development.

(20 U.S.C. 1113b) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1511.

SELECTION OF CHRISTA MCAULIFFE TEACHER FELLOWSHIPS

SEC. 564. Recipients of Christa McAuliffe teacher fellowship in each State shall be selected (in accordance with section 565) by a 7-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

(20 U.S.C. 1113c) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1511.

EVALUATION OF APPLICATIONS

SEC. 565. (a) SUBMISSION TO AND REVIEW BY STATEWIDE PANEL.—An applicant for Christa McAuliffe teacher fellowship assistance shall submit a proposal for a project under section 563(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such a proposal to the local education agency for comment prior to submission to the statewide panel (appointed under section 564) for the State within which the proposed project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting 2 recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to education; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

(b) PUBLIC ANNOUNCEMENT.—Announcement of awards shall be made in a public ceremony.

(20 U.S.C. 1113d) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1511.

FELLOWSHIP REPAYMENT PROVISIONS

SEC. 566. Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.

(20 U.S.C. 1113e) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1512.

PART E—STATE TASK FORCES ON TEACHER TRAINING

STATE TASK FORCES ON TEACHER TRAINING

SEC. 571. (a) IN GENERAL.—No institution of higher education or other entity in any State shall be eligible for assistance under this title for any fiscal year beginning on or after October 1, 1987, unless—

(1) the State educational agency has established a task force on teacher training in accordance with the requirements of subsections (b) and (c); or

(2) the Secretary waives the requirements of this section if the State educational agency has substantially complied with the requirements of paragraphs (1), (2), and (3) of subsection (b), and submits evidence to the Secretary showing such compliance.

(b) TASK FORCE.—The State educational agency, in consultation with the task force established under this section, shall be responsible—

(1) for conducting a statewide assessment of the State's needs for recruiting, retaining, retraining, and improving the performance of, instructional and administrative personnel in preschools, elementary and secondary schools within the State;

(2) for developing plans to meet the needs identified pursuant to paragraph (1); and

(3) for conducting such activities in cooperation with the State needs assessment required under section 208 of the Education for Economic Security Act (20 U.S.C. 3968).

(c) MEMBERSHIP OF TASK FORCE.—A task force established under this section shall be composed of at least one representative of each of the following:

(1) The Governor of the State.

(2) The chief State school officer.

(3) The State higher education executive officer.

(4) The State board of education.

(5) The deans of the schools or colleges of education within the State.

(6) The presidents of colleges and universities within the State.

(7) Pre-school, elementary and secondary school teachers.

(8) Elementary and secondary school administrators, including local superintendents and principals.

(9) The State legislature.

(10) Private nonprofit pre-school, elementary and secondary education.

(d) ALTERNATIVE MEMBERSHIP.—Any previously existing State organization or entity whose membership is substantially the same as the membership required by subsection (c) may, with the approval of the State educational agency, assume the responsibilities of the task force on teacher training under this section.

(e) LONG-RANGE PLANNING.—From the funds available to carry out this subpart, a State educational agency may apply to the Secretary for assistance in order to develop a long-range plan, in consultation with the task force established under this section. Such plan shall—

(1) assess the supply and determine the future needs of educators in the State, including early childhood education and development specialists;

(2) assess the ability of teacher training institutions, the State educational agency, and local educational agencies within the State to meet such needs;

(3) describe the steps being taken within the State to improve the qualifications and performance of practicing and prospective educators and the availability of training resources for such educators;

(4) if determined to be appropriate by the State education agency, establish a program of competitive grants to local educational agencies, professional organizations, institutions of higher education, and consortia of such agencies and institutions within the State that are allocated in accordance with specific criteria developed by the task force on teacher training; and

(5) provide for the performance of such other activities as are deemed appropriate to carry out purposes of this subpart.

(f) DISPOSITION OF FUNDS TO STATES.—Funds appropriated for this subpart shall be allocated among the States based on the number of children aged 5 through 17, inclusive, except that no State shall receive less than the greater of $10,000 or 0.01 percent of the amount so appropriated.

(g) STATE APPLICATIONS.—A State educational agency which desires to obtain a grant under this subpart shall file an application with the Secretary which—

(1) describes the methods which will be used to insure active and continuing consultation with the task force;

(2) provides for timely public notice and public dissemination of the information collected and plans developed; and

(3) ensures that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary under this subpart.

(20 U.S.C. 1115) Enacted October 17, 1986, P.L. 99-498, sec. 501(a), 100 Stat. 1512.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

Part A—International and Foreign Language Studies

FINDINGS AND PURPOSES

Sec. 601. (a) The Congress finds that—

(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

(b) It is the purpose of this part to assist in the development of knowledge, international study, resources and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, and to coordinate the programs of the Federal Government in the areas of foreign language and international studies and research.

(20 U.S.C. 1121) Enacted Nov. 8, 1965, P.L. 89-329, sec. 601, 79 Stat. 1261; amended Nov. 3, 1966, P.L. 89-752, sec. 3(b), 80 Stat. 1241; amended Oct. 16, 1968, P.L. 90-575, secs. 241, 242, 82 Stat. 1041; amended June 23, 1972, P.L. 92-318, sec. 151(a), 86 Stat. 288; amended October 12, 1976, P.L. 94-482, sec. 156, 90 Stat. 2155, 2156; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1465; amended October 17, 1986, P.L. 99-498, sec. 601, 100 Stat. 1514.

GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS

Sec. 602. (a)(1) The Secretary is authorized—

(A) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs; and

(B) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating undergraduate language and area centers and programs,

which will be national resources for teaching of any modern foreign language, for instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used, for research and training in international studies, and the international and foreign language aspects of professional and other fields of study, and for instruction and research on issues in world affairs which concern one or more countries.

(2) Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of

faculty, staff, and student travel in foreign areas, regions, or countries, the cost of teaching and research materials, the cost of curriculum planning and development, the cost of bringing visiting scholars and faculty to the center to teach or to conduct research, and the cost of training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

(3) The Secretary may make grants to centers described in paragraph (1)(A) having important library collections for the maintenance of such collections.

(b)(1)(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary under this part.

(B) Stipend recipients shall be individuals who are engaged in a program of competency-based language training, or in a program developing competency-based language training, in combination with area studies, international studies, or the international aspects of a professional studies program.

(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

(2)(A) The Secretary is also authorized to award, on the basis of a national competition, stipends to students beginning their third year of graduate training.

(B) Stipend recipients shall be selected by a nationally recognized panel of scholars on the basis of exceptional performance (on a nationally referenced test, if available) in the specialty language and evidence of substantial multidisciplinary area training.

(C) Stipends may be held for up to a maximum 4 years contingent on periodic demonstration of a high level of language proficiency.

(D) Stipends may be used for continuation of studies at the institution where the recipient is currently enrolled and for the conduct of research and advanced language study abroad.

(3) The Secretary is not authorized to make awards under paragraph (2) for any fiscal year unless the amount made available by grants under paragraph (1) for such fiscal year equals or exceeds the current services equivalent of the level of funding during fiscal year 1985 under paragraph (1).

(c) No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

(20 U.S.C. 1122) Enacted Nov. 8, 1965, P.L. 89-329, sec. 602, 79 Stat. 1261; amended Nov. 15, 1977, P.L. 95-180, 91 Stat. 1372; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1465; amended October 17, 1986, P.L. 99-498, sec. 602, 100 Stat. 1514; amended June 3, 1987, P.L. 100-50, sec. 18, 101 Stat. 360.

LANGUAGE RESOURCE CENTERS

SEC. 603. (a) The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating language training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

(3) the development and application of proficiency testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

(4) the training of teachers in the administration and interpretation of proficiency tests, the use of effective teaching strategies, and the use of new technologies;

(5) the publication of instructional materials in the less commonly taught languages; and

(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

(b) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

(20 U.S.C. 1123) Enacted November 8, 1965, P.L. 89-329, sec. 603, 79 Stat. 1262; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1466; amended October 17, 1986, P.L. 99-498, sec. 603, 100 Stat. 1515.

UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS

Sec. 604. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a program to strengthen and improve undergraduate instruction in international studies and foreign languages. Grants made under this section may be for projects and activities which are an integral part of such a program, such as—

(1) planning for the development and expansion of undergraduate programs in international studies;

(2) teaching, research, curriculum development, and other related activities;

(3) training of faculty members in foreign countries;

(4) expansion of foreign language courses;

(5) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

(6) programs designed to integrate undergraduate education with terminal Masters Degree programs having an international emphasis; and

(7) the development of an international dimension in preservice and in-service teacher training.

(b)(1) The Secretary is also authorized to make grants to institutions of higher education whose applications are approved under subsection (a) for the purpose of providing assistance to model programs designed to improve and expand foreign language studies at those institutions. Any institution of higher education desiring to receive a grant under this subsection shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

(2)(A) An institution of higher education shall not be eligible for a grant under this subsection for a fiscal year unless—

(i) the sum of the number of students enrolled at such institution in qualified postsecondary language courses on October 1 of that fiscal year exceeds 5 percent of the total number of students enrolled at such institution; and

(ii) such institution requires that each entering student have successfully completed at least 2 years of secondary school foreign language instruction or requires that each graduating student have earned 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in a foreign language).

(B) For the purpose of subparagraph (A)(i), the total number of students enrolled in an institution shall be considered to be equal to the sum of (i) the number of full-time degree candidate students enrolled at the institution, and (ii) the number of part-time degree candidate students who are enrolled at the institution for an academic workload which is at least half the full-time academic workload, as determined by the institution in accordance with standards prescribed by the Secretary.

(3) As a condition for the award of any grant under this subsection, the Secretary may establish criteria for evaluating programs assisted with funds under this subsection and require an annual report which evaluates the progress and proficiency of students in such programs.

(c) The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

(20 U.S.C. 1124) Enacted November 8, 1965, P.L. 89-329, sec. 604, 79 Stat. 1263; amended November 3, 1966, P.L. 89-752, sec. 14, 80 Stat. 1244; amended October 16, 1968, P.L. 90-575, sec. 242, 82 Stat. 1041; amended October 12, 1976, P.L. 94-482, sec. 157, 90 Stat. 2156; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1466; amended October 17, 1986, P.L. 99-498, sec. 604, 100 Stat. 1516.

INTENSIVE SUMMER LANGUAGE INSTITUTES

SEC. 605. (a)(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes.

(2) Training authorized by this section shall be provided through—

(A) institutes designed to meet the needs for intensive language training by advanced foreign language students;

(B) institutes designed to provide professional development and improve language instruction through pre-service and in-service training for language teachers; or

(C) institutes that combine the purposes of subparagraphs (A) and (B).

(3) Grants made under this section may be used for—

(A) intensive training in languages critical to the national economic and political future;

(B) training in neglected languages; and

(C) stipends for students and faculty attending the institutes authorized by this section.

(4) Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under section 602.

(b) Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.

(20 U.S.C. 1124a) Enacted October 17, 1986, P.L. 99-498, sec. 605(2), 100 Stat. 1517.

RESEARCH; STUDIES; ANNUAL REPORT

SEC. 606. (a) The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part. Such research and studies may include but are not limited to—

(1) studies and surveys to determine the need for increased or improved instruction in modern foreign languages and in other fields needed to provide a full understanding of the places in which such languages are commonly used;

(2) research on more effective methods of providing instruction and evaluating competency in such foreign languages and other fields;

(3) the application of proficiency tests and standards across all areas of foreign language instruction and classroom use; and

(4) the development and publication of specialized materials for use in providing such instruction and evaluation or for use in training individuals to provide such instruction and evaluation.

(b) The Secretary shall prepare and publish an annual report listing the books and research materials produced with assistance under this title.

(20 U.S.C. 1125) Enacted November 8, 1965, P.L. 89-329, sec. 605, 79 Stat. 1264; amended October 16, 1968; P.L. 90-575, sec. 242, 82 Stat. 1041; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1467; amended December 21, 1982, P.L. 97-375, sec. 204, 96 Stat. 1823; amended August 22, 1986, P.L. 99-386, sec. 103(c), 100 Stat. 821; amended October 17, 1986, P.L. 99-498, secs. 605(1), 606, 100 Stat. 1517.

PERIODICALS PUBLISHED OUTSIDE THE UNITED STATES

SEC. 607. (a) In addition to the amount authorized to be appropriated by section 609, there are authorized to be appropriated $1,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years to provide assistance for the acquisition of, and provision of access to, periodicals published outside the United States.

(b) From the amount appropriated under subsection (a) for any fiscal year, the Secretary shall make grants to institutions of higher education or public or nonprofit private library institutions or consortia of such institutions for the following purposes:

(1) to acquire periodicals published outside the United States which are not commonly held by American academic libraries and which are of scholarly or research importance;

(2) to maintain current bibliographic information on periodicals thus acquired in machine-readable form and to enter such information into one or more of the widely available bibliographic data bases;

(3) to preserve such periodicals; and

(4) to make such periodicals available to researchers and scholars.

(c) The Secretary shall approve as a recipient of a grant under this section only an institution or consortium which has an established library or consortium of libraries with collection strengths in either specific geographical areas of the world or particular fields or issues in world affairs which concern one or more countries, or both, and which demonstrates a commitment to share the resources of the collection.

(d) Nothing in this section shall be considered to amend, affect, or define the provisions of title 17, United States Code, relating to copyright.

(20 U.S.C. 1125a) Enacted October 17, 1986, P.L. 99-498, sec. 607, 100 Stat. 1518.

SELECTION OF GRANT RECIPIENTS

SEC. 608. (a) The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluate the applications for comprehensive and undergraduate language and area centers and programs.

(b) The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

(c) The Secretary shall, to the extent practicable, award grants under this part (other than section 602(a)(1)) in such manner as to achieve an equitable distribution of assistance throughout the Nation, based on the merit of a proposal with peer review by broadly representative professionals.

(20 U.S.C. 1125b) Enacted October 17, 1986, P.L. 99-498, sec. 608, 100 Stat. 1518.

EQUITABLE DISTRIBUTION OF FUNDS

SEC. 609. (a) The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

(b) To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such manner as will achieve an equitable distribution of funds throughout the Nation.

(20 U.S.C. 1126) Enacted November 8, 1965, P.L. 89-329, sec. 606, 79 Stat. 1265; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1467; amended October 17, 1986, P.L. 99-498, sec. 605(1), 100 Stat. 1517.

AUTHORIZATION OF APPROPRIATIONS

Sec. 610. There are authorized to be appropriated to carry out this part $49,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(20 U.S.C. 1127) Enacted November 8, 1965, P.L. 89-329, sec. 607, 79 Stat. 1265; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1467; amended October 17, 1986, P.L. 99-498, sec. 605(1), 100 Stat. 1517, 1519.

Part B—Business and International Education Programs

FINDINGS AND PURPOSES

Sec. 611. (a) The Congress finds that—

(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business and educational community and creating an awareness among the American public of the internationalization of our economy;

(2) concerted efforts are necessary to engage business schools, language and area study programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

(b) It is the purpose of this part—

(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

(20 U.S.C. 1130) Enacted October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1467; amended October 17, 1986, P.L. 99-498, sec. 610, 100 Stat. 1519.

EDUCATION AND TRAINING PROGRAMS

Sec. 612. (a) The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this part shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

(b) Eligible activities to be conducted by institutions of higher education under this section shall include, but are not limited to—

(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

(4) development of area studies programs and interdisciplinary international programs;

(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives;

(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity; and

(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies.

(c) No grant may be made and no contract may be entered into under the provisions of this part unless an institution of higher education submits an application at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this part to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

(d) The Federal share under this part for each fiscal year shall not exceed 50 per centum of the cost of such program.

(20 U.S.C. 1130a) Enacted October 3, 1980, P.L. 96–374, sec. 601, 94 Stat. 1468; amended October 17, 1986, P.L. 99–498, sec. 611, 100 Stat. 1519.

AUTHORIZATION OF APPROPRIATIONS

Sec. 613. There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(20 U.S.C. 1130b) Enacted October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1469; amended October 17, 1986, P.L. 99-498, sec. 612, 100 Stat. 1519.

Part C—General Provisions

ADVISORY BOARD

Sec. 621. (a) Not less than 2 times each year the Secretary shall convene an advisory board on the conduct of programs under this title. The Advisory Board shall consist of—

(1) 5 members selected by the Secretary from among members of the postsecondary educational community, at least two of whom shall be considered by their peers to be specialists in one or more fields of language, area, or international studies;

(2) 2 members selected by the Secretary from among members of the public; and

(3) 2 members selected by the Secretary from among representatives of the business community.

(b) The Secretary may consult with, or include as ad hoc ex officio participants in Advisory Board meetings, a representative from any appropriate executive agency.

(c) The Advisory Board shall advise the Secretary on—

(1) any geographic areas of special concern to the United States;

(2) innovative approaches which may help to fulfill the purposes of this title;

(3) changes which should be made in the operation of programs under this part to ensure that the attention of scholars is attracted to problems of critical concern to United States international relations;

(4) emerging trends within various segments (pre-college, undergraduate, graduate, and postgraduate) of the international education community;

(5) administrative and staffing requirements of international education programs in the Department; and

(6) special needs with regard to the programs operated under part B.

(d) The Advisory Board shall advise the Secretary and the Congress on adequate budget levels for parts A and B of this title.

(20 U.S.C. 1131) Enacted Nov. 8, 1965, P.L. 89-329, sec. 621, 79 Stat. 1265; amended October 3, 1980, P.L. 96-374, sec. 601, 94 Stat. 1469; amended October 17, 1986, P.L. 99-498, sec. 613, 100 Stat. 1519.

DEFINITIONS

Sec. 622. (a) As used in this title—

(1) the term "area studies" means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

(2) the term "international business" means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods; investments in industries; the licensing of processes, patents and trademarks; and the supply of services;

(3) the term "export education" means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures;

(4) the term "internationalization of curricula" means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education;

(5) the term "comprehensive language and area center" means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and

(6) the term "undergraduate language and area center" means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language an[1] area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students.

(b) All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

(20 U.S.C. 1132) Enacted Nov. 8, 1965, P.L. 89-329, sec. 622, 79 Stat. 1266; amended October 3, 1980, P.L. 96-374, sec. 614, 94 Stat. 1470; amended October 17, 1986, P.L. 99-498, sec. 614, 100 Stat. 1520.

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[1] So in original. Should be "and".

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

PURPOSES

Sec. 701. (a) In General.—The Secretary shall carry out programs of financial assistance to institutions of higher education and to higher education building agencies for the construction, reconstruction, or renovation of academic facilities and the acquisition and maintenance of special research and instructional instrumentation and equipment if the primary purpose of such assistance is to enable such institutions—

(1) to bring their facilities into conformity with the requirements of—

(A) the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

(B) section 504 of the Rehabilitation Act of 1973;

(C) environmental protection or health and safety programs mandated by Federal, State, or local law, if such requirements were not in effect at the time such facilities were constructed; or

(D) hazardous waste disposal, treatment, and storage requirements mandated by the Resource Conservation and Recovery Act of 1976, or similar State statutes;

(2) to more efficiently use available energy resources, especially coal, solar power, and other renewable energy resources;

(3) to detect, remove, or otherwise contain asbestos hazards in academic and other facilities used by students, in accordance with regulations prescribed by the Secretary;

(4) to construct, reconstruct, or renovate the Nation's academic research and instructional instrumentation and facilities, including libraries, and to acquire and maintain special research and instructional instrumentation and equipment;

(5) to provide facilities for advanced skill training programs that relate to emerging technologies and skill needs;

(6) with unusual increases in enrollment or with significant internal programmatic enrollment shifts (according to data and criteria established by the Secretary) to construct, reconstruct, or renovate their facilities; or

(7) to preserve significant architecture.

(b) Priority on Renovation.—In the awarding of grants under part A or B of this title, priority shall be given to projects involving the renovation of facilities.

(20 U.S.C. 1132a) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 288; amended October 12, 1976, P.L. 94-482, secs. 161(a), 162(a)(3), 162(b), 90 Stat. 2157; amended October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1472; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1520; amended June 3, 1987, P.L. 100-50, sec. 19(1), 101 Stat. 360.

APPROPRIATIONS AUTHORIZED

Sec. 702. (a) Parts A and B.—There are authorized to be appropriated—

(1) $15,000,000 for part A for fiscal year 1987,

(2) $10,000,000 for part B for such fiscal year, and

(3) such sums as may be necessary for parts A and B for each of the 4 succeeding fiscal years,

except that no funds may be appropriated for parts A and B for any such fiscal year unless at least $20,000,000 is appropriated for part E of this title for such fiscal year, or for a preceding fiscal year.

(b) Other Programs.—There are authorized to be appropriated—

(1) $25,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for part C;

(2) $25,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for part D; and

(3) $20,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years for part E.

(20 U.S.C. 1132a-1) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 288, 289; amended October 12, 1976, P.L. 94-482, sec. 162(a)(3), 90 Stat. 2157; amended October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1472; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1521; amended June 3, 1987, P.L. 100-50, sec. 19(2), 101 Stat. 360.

Part A—Grants for the Construction, Reconstruction, and Renovation of Undergraduate Academic Facilities

STATE PLAN

Sec. 711. (a) Submission and Contents of Plan.—Any State desiring to participate in the grant program authorized by this part shall have an agreement pursuant to section 1203 and submit annually to the Secretary, through the State agency designated in such agreement, a State plan which shall—

(1) provide that the plan shall be administered by the State entity having an agreement under section 1203;

(2) set forth objective standards and methods which are consistent with basic criteria established under section 712, for—

(A) determining the relative priorities of eligible projects submitted by institutions of higher education within the State, and

(B) certifying the Federal share of the cost of each project;

(3) provide for every applicant an opportunity for a hearing before the State agency regarding the priority assigned to such project, or any other decision by the State agency adversely affecting such applicant; and

(4) provide for accounting procedures necessary to assure proper disbursement of Federal funds.

(b) Hearing Required Before Disapproval.—The Secretary shall not disapprove any State plan, or modification thereof, without first affording the State agency reasonable notice and opportunity for a hearing.

(c) Suspension for Noncompliance.—Whenever the Secretary finds that the State plan substantially fails to comply with this section, the Secretary shall notify the State that it is ineligible to participate in the program under this part until a determination is made that there is no longer a failure to comply.

(20 U.S.C. 1132b) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1473; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1522.

BASIC CRITERIA

SEC. 712. (a) SECRETARY TO PRESCRIBE CRITERIA.—The Secretary shall, by regulation, prescribe basic criteria for the consideration of State plans which ensure—

(1) flexibility for States to accommodate the varied needs of institutions in the States;

(2) consideration of the degree to which applicant institutions are effectively using existing facilities; and

(3) that the Federal share shall not exceed 50 percent of the development costs of a project.

(b) RULEMAKING PROCEDURES REQUIRED.—Section 553 of title 5, United States Code, shall apply to the prescription of regulations under this section.

(20 U.S.C. 1132b-1) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1473; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1522.

ALLOTMENT OF FUNDS

SEC. 713. (a) USE FOR PUBLIC COMMUNITY COLLEGES AND TECHNICAL INSTITUTES; OTHERS.—From the sums appropriated pursuant to section 702 to carry out the purposes of this part, not less than 24 percent shall be allotted to States under subsection (b) for public community colleges and public technical institutes. The remainder of such sums shall be allotted to States under subsection (c) for all other institutions of higher education.

(b) ALLOTMENT FOR PUBLIC COMMUNITY COLLEGES AND TECHNICAL INSTITUTES.—(1) For the purpose of making grants to public community colleges and public technical institutes, the Secretary shall allot to each State an amount which bears the same ratio to the amount available for allotment under this subsection as the product of—

(A) the number of persons in the State who have graduated from high school or received an equivalent certificate during the previous school year, and

(B) the State's allotment ratio,

bears to the sum of the corresponding products for all the States.

(2)(A) Except as provided in subparagraph (B), the allotment ratio shall be 1.00 less the product of—

(i) 0.50, and

(ii) the quotient obtained by dividing the income per person for the State by the income per person for all States (not including Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam).

(B) Notwithstanding subparagraph (A)—

(i) the allotment ratio shall in no case be less than 0.33 1/3 or more than 0.66 2/3;

(ii) the allotment ratio for Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and Guam shall be 0.66 2/3; and

(iii) the allotment ratio of any State shall be 0.50 for any fiscal year if the Secretary finds that the cost of school construction in such State exceeds twice the median of such costs in all the States as determined by the Secretary on the basis of statistics and data as the Secretary shall deem adequate and appropriate.

(C) Allotment ratios shall be promulgated annually by the Secretary on the basis of the average personal income in the State and in all the States for the three most recent consecutive calendar years for which data are available from the Department of Commerce.

(c) Allotment for Other Institutions.—For the purpose of making grants to all other institutions of higher education, the Secretary shall allot to each State—

(1) an amount which bears the same ratio to 50 percent of the amount available for allotment under this subsection as the number of students enrolled in institutions of higher education in such State bears to the number of students so enrolled in all States; and

(2) an amount which bears the same ratio to 50 percent of the amount available for allotment under this subsection as the number of students enrolled in grades 9 through 12 of schools in such State bears to the total number of students so enrolled in all the States.

(d) Aggregate Limits and Ratable Reductions.—The aggregate amount allotted to any State under subsections (b) and (c) for any fiscal year shall not be less than $100,000. If the sums appropriated pursuant to section 702 are not sufficient to make payments to each State, then the amount of each State's allotment shall be ratably reduced.

(e) Reallocation.—(1) Any portion of a State's allotment under subsections (b) and (c) for any fiscal year for which applications from qualified institutions have not been received by the State agency prior to January 1 of such fiscal year shall, by request, be available for payment of the Federal share of cost of other approved projects.

(2) Amounts allotted under this section for any fiscal year which are not used by the close of the fiscal year shall be reallotted by the Secretary among the States which are able to use the funds without delay during the next fiscal year.

(f) Use for Construction, Reconstruction, Renovation.—Funds available under this part may be used for construction, reconstruction, or renovation of undergraduate facilities and combined graduate and undergraduate facilities.

(g) Use for Maintenance.—In addition, an amount less than or equal to 10 percent of that portion of an award granted under this part which is allotted by the recipient to meet costs of—

(1) research or instructional instrumentation and equipment, and

(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment,

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use, if the recipient deems such upgrading essential to the continued utility (usefulness) of such research or instructional instrumentation and equipment.

(20 U.S.C. 1132b-2) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1473; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1522.

PART B—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

GRANTS

SEC. 721. (a) GRANT TO INSTITUTIONS; STATE LIMITATION.—(1) Funds available for this part shall be used by the Secretary to make grants to graduate institutions of higher education whose applications for assistance are consistent with the objectives of this title.

(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 percent of sums appropriated for this part.

(b) PEER REVIEW REQUIRED.—In making grants under this section, the Secretary shall utilize a national peer review panel. The National Peer Review Panel shall be broadly representative of all types and classes of institutions of higher education in the United States. Such panel shall make recommendations to the Secretary based on their assessment of—

(1) the effectiveness of the program in the proposed use of Federal assistance; and

(2) the extent to which the receipt of the grant will assist the institution in overcoming deficiencies in existing equipment and facilities.

(c) COST LIMITATIONS.—The amount of the grant shall not exceed 50 percent of the development cost of the project. No funds or resources provided through Federal programs shall be used to meet the institution's share of the program supported under this section.

(d) USE FOR MAINTENANCE.—An amount less than or equal to 10 percent of that portion of an award granted under this part which is allotted by the recipient to meet costs of—

(1) research or instructional instrumentation and equipment, and

(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment,

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use, if the recipient deems such upgrading essential to the continued utility (usefulness) of such research or instructional instrumentation and equipment.

(20 U.S.C. 1132c) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 293; amended October 12, 1976, P.L. 94-482, secs. 161(b), 162(e), 90 Stat. 2156; amended October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1475; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1524.

PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

ELIGIBILITY CONDITIONS, AMOUNTS, AND TERMS

SEC. 731. (a) SELECTION OF RECIPIENTS.—From the sums available for this part, the Secretary shall make loans to institutions of higher education and to higher education building agencies for programs consistent with the purposes of this title. No loan shall be made unless the Secretary finds that—

(1) not less than 20 percent of the development cost of the project will be financed from non-Federal sources;

(2) the applicant is unable to secure the loan from other sources upon terms and conditions equally as favorable as those applicable to loans under this part;

(3) the project will be undertaken in an economical manner; and

(4) for any project with regard to an infirmary or other outpatient care facility for students and institutional personnel, assistance will not be provided under part F of this title.

(b) TERMS OF LOANS.—Loans shall be repaid within 50 years and shall bear interest at (1) a rate annually determined by the Secretary which shall be not more than one-quarter of 1 percentage point above the average annual interest rate on all interest-bearing obligations of the United States forming a part of the public debt as computed at the end of the preceding fiscal year, adjusted to the nearest one-eighth of 1 percent, or (2) the rate of 5.5 percent per year, whichever is less.

(c) USE FOR MAINTENANCE.—An amount less than or equal to 10 percent of that portion of a loan granted under this part which is allotted by the recipient to meet costs of—

(1) research or instructional instrumentation and equipment, and

(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment,

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within three years of the date of initial use, if the recipient deems such upgrading essential to the continued utility (usefulness) of such research or instructional instrumentation and equipment.

(20 U.S.C. 1132d) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1475; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1525; amended June 3, 1987, P.L. 100-50, sec. 19(3), 101 Stat. 360.

GENERAL PROVISIONS FOR LOAN PROGRAM

SEC. 732. (a) CONCLUSIVENESS OF SECRETARY'S TRANSACTIONS.—Financial transactions of the Secretary, except with respect to administrative expenses, shall be final and conclusive on all officers of the Government and shall not be reviewable by any court.

(b) GENERAL AUTHORITY.—In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

(2) sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under his control, and nothing herein shall be construed to except litigation arising out of activities under this part from the application of sections 507(b) and 517 and 2679 of title 28, United States Code;

(3) foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has made a loan pursuant to this part; in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary may complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property; except that (A) such action shall not preclude any other action by the Secretary to recover any deficiency in the amounts loaned, and (B) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(4) sell, exchange, or lease real or personal property and securities or obligations;

(5) modify, with respect to the rate of interest, the time of payment of principal, interest, security, or any other term of any contract or agreement to which the Secretary is a party, including—

(A) granting a moratorium on the repayment of principal or interest to a party temporarily unable to make such repayment without undue financial hardship provided the applicant files, and the Secretary approves, a plan to make repayment; and

(B) granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (c) if the Secretary has received satisfactory assurances that the facilities financed with the loan will continue to be used for purposes related to the educational institution for the original term of the loan, and the prepayment is (i) made from non-Federal sources, (ii) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, (iii) made on a loan that has been outstanding for at least 5 years, and (iv) is made prior to October 1, 1991; and

(6) include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this title will be achieved.

(c) Computation of Allowable Discounts.—The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (b)(5) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan.

(d) Nondiscrimination Between Borrowers in Offering Discounted Prepayment.—(1) If the Secretary offers a discount as an inducement to early repayment under subsection (b)(5), such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1986, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

(2) The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

(20 U.S.C. 1132d-1) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1475; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1526.

REVOLVING LOAN FUND

Sec. 733. (a) Establishment.—There is created within the Treasury a revolving loan fund for the purpose of making loans under this part (hereafter referred to as the "fund") which shall be available to the Secretary without fiscal year limitation. The total of any loans made from the fund in any fiscal year shall not exceed limitations specified in appropriations Acts.

(b) Management of Fund.—(1) The Secretary shall transfer to the fund appropriations provided under section 702 to provide capital for making loans. Interest and principal payments on loans, and any other moneys, property, or assets derived from activities under this part shall be deposited in the fund.

(2) All loans, expenses, and payments pursuant to operation of this part shall be paid from the fund, including expenses and payments in connection with sale, pursuant to section 302(c) of the Federal National Mortgage Association Charter Act, of participations in obligations acquired under this part. At the close of each fiscal year, the Secretary shall pay interest on the cumulative amount of funds paid out for loans under this part less the average undisbursed cash balance in the fund during the year. The interest rate shall be determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Treasury obligations of maturity comparable to the average maturity of loans made from the fund during the month preceding each fiscal year. Interest payments may be deferred with the approval of the Secretary of the Treasury, but interest payments so deferred shall themselves bear interest. If the Secretary determines that moneys in the fund exceed the present and prospective needs of the fund, the excess may be transferred to the general fund of the Treasury.

(20 U.S.C. 1132d-2) Enacted October 3, 1980, P.L. 96-374, sec. 701, 94 Stat. 1476; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1527; amended June 3, 1987, P.L. 100-50, sec. 19(4), 101 Stat. 360.

Part D—Grants To Pay Interest on Debt

ANNUAL INTEREST GRANTS

Sec. 741. (a) **Grant Authority.**—To assist institutions of higher education and higher education building agencies in reducing the cost of borrowing from other sources for projects under this part, the Secretary may make annual interest grants to such institutions and agencies with respect to any project made over a fixed period not exceeding 40 years, and provision for the grants shall be embodied in the contract guaranteeing their payment. Grants shall not be greater than the difference between (1) the average annual debt service which would be required to be paid during the life of the loan on the amount borrowed from other sources for the construction of such facilities, and (2) the average annual debt service which the institution or agency would have been required to pay during the life of the loan if the applicable interest rate had been determined by the Secretary in accordance with section 731(b).

(b) **Limits on Grants.**—The total amount of annual interest grants which may be paid to institutions of higher education and higher education building agencies in any year pursuant to contracts entered into for such year under this section shall not exceed $13,500,000.

(c) **State Allocation Limits.**—The total payment for any fiscal year made to institutions of higher education and higher education building agencies in any State shall not exceed 12.5 percent of sums appropriated for this section.

(d) **Requirements for Grants.**—No annual interest grant shall be made unless (1) assurance is provided that not less than 10 percent of the costs of the project will be financed from non-Federal sources, (2) the applicant is unable to secure a loan from other sources upon terms and conditions as favorable as those applicable to loans under this title, and (3) the project will be undertaken in an economical manner. Loans for which an interest grant is made shall, for purposes of this section only, not be considered financing from a non-Federal source.

(20 U.S.C. 1132e) Enacted June 23, 1972, P.L. 92-318, sec. 161, 86 Stat. 295; amended October 12, 1976, P.L. 94-482; sec. 161(c), 90 Stat. 2156; sec. 162(a)(3), 90 Stat. 2157; amended October 3, 1980; P.L. 96-374, sec. 701, 94 Stat. 1478; amended October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1528.

Part E—College Construction Loan Insurance Association

CONGRESSIONAL DECLARATION OF PURPOSE; DEFINITION; INCORPORATION

Sec. 751. (a) **Purpose.**—The Congress hereby declares that it is the purpose of this part to authorize participation of the United States Government and the Student Loan Marketing Association in a private, for profit corporation to be known as the College Construction Loan Insurance Association (hereinafter referred to as the "Corporation") which will, directly or indirectly, alone or in collaboration with others—

(1) guarantee, insure, and reinsure bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for an education facilities purpose;

(2) guarantee and insure leases of personal, real, or mixed property to be used for an education facilities purpose; and

(3) issue letters of credit and undertake obligations and commitments as the Corporation deems necessary to carry out the purposes described in paragraphs (1) and (2).

(b) STATUS AS NON-GOVERNMENTAL ENTITY.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a "Government corporation" nor a "Government controlled corporation" as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(c) CORPORATE POWERS AND LIMITATIONS.—The Corporation shall be subject to the provisions of this part and, to the extent not inconsistent with this part, to the District of Columbia Business Corporation Act. The business activities of the Corporation shall always be limited to the purposes set forth in subsection (a) of this section. It shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act as from time to time in effect in order to conduct its corporate affairs and to carry out its purposes and activities incidental thereto.

(d) DEFINITION OF EDUCATION FACILITIES PURPOSE.—As used in this section, an "education facilities purpose" includes any activity (including activities related to the payment of financing or transaction costs) relating to the construction, reconstruction, renovation, acquisition, or purchase of (1) education, training, or research facilities or housing for students, faculty, or staff, (2) any underlying real property or any interest therein, (3) furniture, fixtures, and equipment to be used in connection with any education or training facility or housing for students, faculty, or staff, and (4) instructional equipment and research instrumentation including site preparation for such equipment and instrumentation.

(20 U.S.C. 1132f) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1528.

CRITERIA FOR GUARANTEES AND INSURANCE

SEC. 752. (a) GENERAL RULE.—The Corporation shall provide direct insurance, guarantees, and reinsurance on obligations issued for education facilities purposes only in accordance with the requirements of this section.

(b) ALLOCATION OF REINSURANCE CAPACITY.—

(1) At least the percentages specified in paragraph (2) of the aggregate dollar amount of bond and debenture issues reinsured by the Corporation shall be issues which, without insurance, are listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

(2) For the purpose of paragraph (1) of this subsection, the percentages specified in this paragraph shall be—

(A) 10 percent for the first full year of operation of the Corporation;

(B) 30 percent for the second full year of such operation; and

(C) 50 percent for the third full year of such operation and thereafter.

(3) No bond or debenture issue which is both reinsured and directly insured by the Corporation may be counted toward the fulfillment of the requirements of paragraph (1).

(c) Direct Insurance and Guarantee Activities; Limitations.—

(1) All of the assets and obligations directly covered by primary insurance or guarantees issued by the Corporation shall be assets or obligations of institutions which are, without insurance or guarantee, listed by a nationally recognized statistical rating organization at a rating below the third highest rating of such organization.

(2) At least the percentages specified in paragraph (3) of the aggregate dollar amount of the assets and obligations reinsured, insured, and guaranteed by the Corporation under this section shall be in the direct insurance and guarantee activities specified in this subsection.

(3) For the purpose of paragraph (2) of this paragraph, the percentages specified in this paragraph shall be—

(A) 10 percent for the first full year of operation of the Corporation;

(B) 30 percent for the second full year of such operation; and

(C) 50 percent for the third full year of such operation and thereafter.

(4) For the purpose of paragraph (1), the assets and obligations which may be directly covered by primary insurance or guarantees issued by the Corporation are—

(A) bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for an education facilities purpose; and

(B) leases of personal, real, or mixed property to be used for an education facilities purpose.

(d) Notice of Services.—The Corporation shall take such steps as may be necessary to publicize the availability of its insurance and reinsurance programs under this section in a manner that assures that information concerning such programs will be available to each eligible institution.

(e) Nondiscrimination Required.—

(1) The Corporation may not carry out any activities with respect to any educational facilities purpose of a participating institution if the institution discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition.

(2) The prohibition with respect to religion shall not apply to an educational institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

(3) Each participating institution shall certify to the Corporation that the institution does not discriminate as required by the provisions of paragraph (1).

(20 U.S.C. 1132f-1) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1529.

PROCESS OF ORGANIZATION

Sec. 753. The Secretary of the Treasury, the Secretary, and the Student Loan Marketing Association shall each appoint 2 persons to be incorporators of the Corporation. If either the Secretary of the Treasury or the Secretary fail to appoint incorporators within 90 days after the date of enactment of the Higher Education Amendments of 1986, the Student Loan Marketing Association, after consultation with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives, shall have the authority to name the incorporators which have not been so appointed. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial Board of Directors until the members of the first regular Board of Directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the Corporation, including the filing of articles of incorporation.

(20 U.S.C. 1132f-2) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1530.

OPERATION AND ELECTION OF BOARD OF DIRECTORS

Sec. 754. (a) In General.—The Corporation shall have a Board of Directors which shall consist of 11 members, of whom one shall be elected annually by the Board to serve as chairman. Directors shall serve for terms of one year or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the Director whom he succeeds. Two Directors shall be appointed by the Secretary of the Treasury; 2 Directors shall be appointed by the Secretary; 3 Directors shall be appointed by the Student Loan Marketing Association; and the remaining 4 Directors shall be elected by the holders of the Corporation's voting common stock at least one of whom shall be a college or university administrator. The failure of the Secretary or the Secretary of the Treasury to make any one or more appointments to the Board of Directors of the Corporation shall not affect or diminish the right and power of (1) the other directors who have been appointed or elected to assume and carry out their duties as directors and (2) the Board so constituted to act for all purposes as the full Board of the Corporation.

(b) Cumulative Voting.—The articles of incorporation of the Corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29-327(d)).

(20 U.S.C. 1132f-3) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1531.

INITIAL CAPITAL

Sec. 755. (a) Authority To Issue Common Stock.—The Corporation shall issue shares of voting common stock of no par value at such time within 6 months of its incorporation as shall be designated by the initial Board of Directors, and from time to time thereafter.

(b) SUBSCRIPTION BY SECRETARY.—The Secretary is authorized and directed to subscribe to and purchase, in each of the 5 years following the incorporation of the Corporation, voting common stock of the Corporation having an aggregate purchase price of not more than $20,000,000, subject to availability of appropriations.

(c) SUBSCRIPTION BY ASSOCIATION.—The Student Loan Marketing Association is authorized to subscribe to and purchase during the 5 years following the incorporation of the Corporation voting common stock of the Corporation having an aggregate purchase price of $25,000,000 or more.

(d) ANNUAL ISSUANCE.—The Corporation is authorized to offer for subscription and purchase to the general public during the 5 years following the incorporation of the Corporation, voting common stock having an aggregate purchase price of $125,000,000. Not less than 40 percent of such stock shall be set aside for purchase by institutions of higher education prior to being offered to the general public.

(20 U.S.C. 1132f-4) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1531.

ISSUE OF NONVOTING STOCK AND DEBT TO THE PUBLIC

SEC. 756. The Corporation may issue, without limitation as to amount or restriction as to ownership, such nonvoting common, preferred, and preference stock, debt, and such other securities and obligations, in such amounts, at such times, and having such terms and conditions as may be deemed necessary or appropriate by its Board of Directors.

(20 U.S.C. 1132f-5) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1532.

OBLIGATIONS NOT FEDERALLY GUARANTEED; NO FEDERAL PRIORITY

SEC. 757. No obligation which is insured, guaranteed, or otherwise backed by the Corporation, shall be deemed to be an obligation which is guaranteed by the full faith and credit of the United States. No obligation which is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation which is guaranteed by the Student Loan Marketing Association. This section shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

(20 U.S.C. 1132f-6) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1532.

AUTHORITY OF SECRETARY TO SELL COMMON STOCK; RIGHT OF FIRST REFUSAL

SEC. 758. (a) AUTHORITY TO SELL.—The Secretary may, at any time after a date which is 5 years after the date of incorporation of the Corporation, sell (in one or more transactions) the voting common stock of the Corporation owned by the Secretary. Prior to offering such common stock for sale to any other person, the Secretary shall offer such stock to the Student Loan Marketing Association at the price determined pursuant to subsection (b). Not later than 30 days prior to the sale of such stock, the Secretary shall advise, in writing, the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of plans of the Secretary.

(b) PURCHASE PRICE.—The price at which the Secretary may sell the voting common stock of the Corporation under subsection (a) shall be the market value of such shares as determined by the Secretary, on the basis of an independent appraisal, but shall not be less than the value of such shares as shown on the books of account of the Corporation as of the date of closing of such purchase. In no event shall the purchase price be less than the original issuance price.

(c) BOARD OF DIRECTORS ELECTED AFTER MAJORITY BUY-OUT.—If the Student Loan Marketing Association acquires from the Secretary sufficient voting common stock so as to own more than 50 percent of the issued and outstanding voting common stock of the Corporation, section 754 (except subsection (b)) shall be of no further force or effect and the Board of Directors of the Corporation shall thereafter be elected entirely by the voting common shareholders.

(d) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—Until such time as the Student Loan Marketing Association acquires all of the voting common stock owned by the Secretary, the Student Loan Marketing Association shall have the right to purchase all, or any lesser portion it shall select, of each of the issues of equity securities or other securities convertible into equity of the Corporation as the Corporation may issue from time to time, on the same terms and conditions as such securities are to be offered to other persons.

(e) AUTHORITY OF ASSOCIATION WITH RESPECT TO CORPORATION.—The Student Loan Marketing Association is authorized and empowered to purchase stock and to carry out such other activities as are necessary and appropriate for carrying out the Association's obligations and responsibilities with respect to the Corporation. The Student Loan Marketing Association is also authorized to enter into such other transactions with the Corporation, including the acquisition of securities and obligations of the Corporation referred to in this section and sections 755 and 756, and arrangements for the provision of management and other services to the Corporation, as shall be approved by the Student Loan Marketing Association and the Corporation.

(20 U.S.C. 1132f-7) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1532.

USE OF STOCK SALE PROCEEDS

SEC. 759. The proceeds received by the Secretary upon the sale of any shares of the Corporation to the Student Loan Marketing Association or any other person shall be deposited in the general fund of the Treasury.

(20 U.S.C. 1132f-8) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1533.

AUDITS; REPORTS TO THE PRESIDENT AND THE CONGRESS

SEC. 760. (a) ACCOUNTING.—The books of account of the Corporation shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

(b) Reports.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations and activities under this part, which annual report shall include a copy of the Corporation's financial statements and the opinion with respect thereto prepared by the independent public accountant reviewing such statements and a copy of any report made on an audit conducted under subsection (a). The annual reports shall include such information and other evidence as is necessary to demonstrate that the Corporation has complied with the requirements of section 752.

(20 U.S.C. 1132f-9) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1533.

Part F—Housing and Other Educational Facilities Loans

FEDERAL ASSISTANCE IN THE FORM OF LOANS

Sec. 761. (a) Authority and Conditions for Loans.—To assist undergraduate postsecondary educational institutions in the construction, reconstruction, or renovation of housing, undergraduate academic facilities, and other educational facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless—

(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title; and

(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

(b) Use of Loans for Previously Made Contracts.—Any undergraduate postsecondary educational institution which, prior to the date of enactment of this section, has contracted for housing or other educational facilities may, in connection therewith, receive loans authorized under this title, as the Secretary may determine. No such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to the effective date of this section, or completed prior to the filing of an application under this title.

(c) Amount and Conditions of Loans.—A loan to an undergraduate postsecondary educational institution—

(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

(2) shall be secured in such manner and be repaid within such period, not exceeding 50 years, as may be determined by the Secretary; and

(3) shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 5.5 percent per annum, or (B) the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in subsection (d).

(d) USE OF FUNDS FROM TITLE IV OF THE HOUSING ACT OF 1950.—Funds obtained pursuant to section 401(d) of the Housing Act of 1950 shall be available for the purposes of carrying out this part. For such purposes, the total amount of notes and obligations which the Secretary may continue to issue and have outstanding for purchase by the Secretary of the Treasury shall not exceed the amount issued and outstanding under such section 401(d) as of September 30, 1985. Such notes and other obligations shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations issued to obtain funds for loan contracts entered into after the effective date of the Higher Education Act Amendments of 1986 shall bear interest at a rate determined by the Secretary of the Treasury which shall not be more than the average current yield on outstanding obligations of the United States of comparable maturities in the month preceding the month in which the contract for such loan is made. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this part and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired under this part. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

(e) USE OF FUNDS.—Not less than 10 percent of the funds held by the Secretary under subsection (d) shall be made available for loans under this part for each fiscal year.

(f) APPROPRIATION TO COVER NOTES AND OBLIGATIONS NOT COVERED BY LOAN REPAYMENT.—There are authorized to be appropriated to the Secretary such sums as may be necessary, together with principal and interest payments made by postsecondary educational institutions assisted with loans made under this part (or under title IV of the Housing Act of 1950), for payment on notes and obligations issued by the Secretary under this part or such title.

(20 U.S.C. 1132g) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1533.

GENERAL PROVISIONS

SEC. 762. (a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial

transactions shall be final and conclusive upon all officers of the Government.

(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefore, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes for this part;

(2) sue and be sued;

(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

(6) obtain insurance against loss in connection with property and other assets held;

(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part, granting to a borrower of a loan made before October 1, 1986, the option of repaying the loan at a discount computed in accordance with subsection (d) if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1954, and (C) made on a loan that has been outstanding for at least 5 years; and

(8) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

(d) Computation of Allowable Discounts.—The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (c)(7) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan.

(e) Nondiscrimination Between Borrowers in Offering Discounted Prepayment.—(1) If the Secretary offers a discount as an inducement to early repayment under subsection (c)(7), such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1986, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

(2) The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

(f) Contracts for Supplies or Services.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

(g) Applicability of Government Corporation Control Act.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part.

(h) Wage Rates.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors or any project assisted under this part, the construction or rehabilitation of which was commenced after the date of enactment of the Housing Act of 1950—

(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended; and

(2) shall be employed not more than 40 hours in any one week unless the employee receives wages for his employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which he is employed;

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

(i) Limitation.—No loan may be made under this part for any facility on the campus of any undergraduate postsecondary educational institution until 10 years after the date on which a previous loan for another facility on such campus was made under this part.

(20 U.S.C. 1132g-1) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1535.

APPORTIONMENT; PRIORITIES

Sec. 763. (a) Apportionment.—Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State.

(b) Priorities.—In awarding loans under this part, the Secretary shall give priority—

(1) to loans for renovation or reconstruction of undergraduate academic facilities; and

(2) to loans for renovation or reconstruction of older undergraduate academic facilities and undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period.

(20 U.S.C. 1132g-2) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1537.

DEFINITIONS

Sec. 764. For the purpose of this part:

(a) Housing.—The term "housing" means—

(1) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

(2) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

(b) Educational Institution.—The term "undergraduate postsecondary educational institution" means—

(1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this part, at least a 2-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual); or

(B) any public educational institution which—

(i) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association;

(ii) offers technical or vocational instruction; and

(iii) provides residential facilities for some or all of the students receiving such instruction;

(2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

(A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in paragraph (1) without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

(B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 761, will pass to such institution (or to anyone or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

(4) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in paragraph (1), but nothing in this paragraph shall require an institution included in paragraph (1) to obtain loans or grants through any instrumentality included in this paragraph; and

(5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in paragraph (1).

In the case of any loan made under section 761 to a corporation described in paragraph (3) which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in paragraph (5), and in the case of any loan which is obtained from other sources by such a corporation, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions). Where the law of any State in effect on the date of enactment of the Housing Act of 1964 prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

(c) UNDERGRADUATE ACADEMIC FACILITIES.—(1) Except as provided in paragraph (2), the term "undergraduate academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing at least a two-year program acceptable for full credit toward a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to insure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(2) The term "undergraduate academic facilities" shall not include (A) any facility intended primarily for events for which admission is to be charged to the general public, (B) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or

where the Secretary finds that the physical integration of such facilities with other undergraduate academic facilities included under this part is required to carry out the objectives of this part, (C) any facility used or to be used for sectarian instruction or as a place for religious worship, or (D) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

(d) DEVELOPMENT COST.—The term "development cost" means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing or other educational facilities; except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

(e) FACULTIES.—The term "faculties" means member of the faculty and their families.

(f) OTHER EDUCATIONAL FACILITIES.—The term "other educational facilities" means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

(20 U.S.C. 1132g-3) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1537; amended June 3, 1987, P.L. 100-50, sec. 19(5), 101 Stat. 360.

PART G—SPECIAL PROGRAMS

WELCH HALL

SEC. 771. (a) PROGRAM AUTHORITY.—In recognition of the unique architectural and historic significance to the education profession of Welch Hall, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to Eastern Michigan University in Ypsilanti, Michigan, for the purpose of the renovation and restoration of the physical facilities of Welch Hall.

(b) APPLICATION.—No financial assistance may be made available under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(20 U.S.C. 1132h) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1539.

ACADEMIC HEALTH EDUCATION CENTER AUTHORIZED

SEC. 772. (a) ASSISTANCE AUTHORIZED.—The Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the Rochester Institute of Technology located in Rochester, New York, to pay the Federal share of the cost of construction, and related costs (including equipment), for the Academic Health Education Center facility at the Rochester Institute of Technology, to be used as a national model for the integration of student academic, counseling, health, and professional development activities. The Center will integrate students and programs developed for the hearing-impaired.

(b) TERMS AND CONDITIONS.—(1) No financial assistance may be made available under this section except upon application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) For the purpose of this section, the Federal share of the cost of the Academic Health Education Center facility at the Rochester Institute of Technology shall not exceed 50 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $1,800,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(20 U.S.C. 1132h-1) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1539.

ESTEY HALL

SEC. 773. (a) PROGRAM AUTHORITY.—In recognition of its historic and architectural significance as the first Black women's college dormitory, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to Shaw University of Raleigh, North Carolina, for the purpose of the renovation and restoration of the physical facilities of Estey Hall.

(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $550,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(20 U.S.C. 1132h-2) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1540.

ELECTRONIC INSTRUCTIONAL NETWORK FOR GIFTED AND TALENTED STUDENTS

SEC. 774. (a) ASSISTANCE AUTHORIZED.—In recognition of the benefits to be gained from applying existing and emerging technologies to classroom instruction, the Secretary is authorized, under the provisions of this section, to provide financial assistance to a 4-year postsecondary institution in cooperation with school districts, for the purpose of renovating, constructing, and equipping a facility incorporating such technological advances as two-way interactive video communications to extend an existing electronic instructional network for providing college and advanced level courses to talented and gifted secondary school students.

(b) APPLICATION.—No financial assistance may be made available under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(20 U.S.C. 1132h-3) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1540.

MARY MCLEOD BETHUNE MEMORIAL FINE ARTS CENTER

Sec. 775. (a) General Authority.—In recognition of the remarkable career of Mary McLeod Bethune, founder and president of Bethune-Cookman College, founder and first president of the National Council of Negro Women, and confidant and advisor to Presidents of the United States, and in order to enhance the ability of Bethune-Cookman College to carry on the unique quality of service to the community and to the Nation that characterizes the life of Mary McLeod Bethune, the Secretary shall, in accordance with the provisions of this section, provide financial assistance to the Bethune-Cookman College in Volusia County, Florida, to enable the Bethune-Cookman College to establish the Mary McLeod Bethune Memorial Fine Arts Center.

(b) Application.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(c) Uses.—The financial assistance made available pursuant to this section shall be used for the construction of the Mary McLeod Bethune Memorial Fine Arts Center building, the acquisition of necessary equipment, and the acquisition of necessary real property for the establishment of the Center.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums, not to exceed $6,200,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(20 U.S.C. 1132h-4) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1541.

UNIVERSITY OF CONNECTICUT BEHAVIORAL SCIENCE FACILITY

Sec. 776. (a) General Authority.—The Secretary is authorized to provide financial assistance, in accordance with the provisions of this section, to pay the costs of the Behavioral Science Facility at the University of Connecticut, located at Storrs, Connecticut, to enable the University of Connecticut to expand collaborative research for the benefit of the region.

(b) Application.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums, not to exceed $1,300,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(20 U.S.C. 1132h-5) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1541.

UNIVERSITY OF RHODE ISLAND BUSINESS ADMINISTRATION PROGRAM

SEC. 777. (a) GENERAL AUTHORITY.—The Secretary is authorized to provide financial assistance, in accordance with the provisions of this section, to pay the costs establishing a business administration program leading to a doctorate degree at the University of Rhode Island located at Kingston, Rhode Island, in order to enhance economic development of the southeastern New England region.

(b) APPLICATION.—No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $300,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

(20 U.S.C. 1132h-6) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1541.

PART H—GENERAL

RECOVERY OF PAYMENTS

SEC. 781. (a) PUBLIC BENEFIT.—The Congress declares that, if a facility constructed with the aid of a grant under part A or B of this title is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of this title.

(b) RECOVERY UPON CESSATION OF PUBLIC BENEFIT.—If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A or B of this title—

(1) the applicant (or its successor in title or possession) ceases or fails to be a public or nonprofit institution, or

(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term "academic facility", unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) PROHIBITION ON USE FOR RELIGION.—Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under this title shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

(20 U.S.C. 1132i) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1542.

DEFINITIONS

SEC. 782. The following definitions apply to terms used in this title:

(1)(A) Except as provided in subparagraph (B), the term "academic facilities" means structures suitable for use as classrooms, laboratories, libraries, and related facilities necessary or appropriate for instruction of students, or for research, or for administration of the educational or research programs, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities. For the purpose of part A or C, such term includes infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to ensure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

(B) The term "academic facilities" shall not include (i) any facility intended primarily for events for which admission is to be charged to the general public, or (ii) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other academic facilities included under this title is required to carry out the objectives of this title, or (iii) any facility used or to be used for sectarian instruction or as a place for religious worship, or (iv) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity, or (v) any facility used or to be used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, or school of public health as these terms are defined in section 701 of the Public Health Service Act, or a school of nursing as defined in section 853 of that Act, except that the term "academic facilities" may include any facility described in clause (v) to the degree that such facility is owned, operated, and maintained by the institution of higher education requesting the approval of a project; and that funds available for such facility under such project shall be used solely for the purpose of conversion or modernization of energy utilization techniques to economize on the use of energy resources; and that such project is not limited to facilities described in clause (v).

(2)(A) The term "construction" means (i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor; or (ii) acquisition of existing structures not owned by the institution involved; or (iii) a combination of either of the foregoing. For the purpose of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed in connection with construction; and the terms "equipment", "initial equipment", and "built-in equipment", shall be more particularly defined by the Secretary by regulation.

(B) The term "reconstruction or renovation" means rehabilitation, alteration, conversion, or improvement (including the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purpose of the preceding sentence, the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an academic facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like; the term "initial equipment" means equipment acquired and installed either in connection with construction as defined in paragraph (2)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an academic facility; the terms "equipment", "initial equipment", and "built-in equipment" shall be more particularly defined by the Secretary by regulation; and the term "rehabilitation, alteration, conversion, or improvement" includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, academic facilities by such persons.

(3)(A) The term "development cost", with respect to an academic facility, means the amount found by the Secretary to be the cost, to the applicant for a grant or loan under this title, of the construction, reconstruction, or renovation involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility. There shall be excluded from the development cost—

(i) in determining the amount of any grant under part A or B, an amount equal to the sum of (I) any Federal grant which the institution has obtained or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a grant under part A or B, and (II) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant; and

(ii) in determining the amount of any loan under part C, an amount equal to the amount of any Federal financial assistance which the institution has obtained, or is assured of obtaining, under any law other than this title, with respect to the construction, reconstruction, or renovation that is to be financed with the aid of a loan under part C.

(B) In determining the development cost with respect to an academic facility, the Secretary may include expenditures for works of art for the facility not to exceed 1 percent of the total cost (including such expenditures) to the applicant of construction, reconstruction, or renovation of, and land acquisition and site improvements for, such facility.

(4) The term "maintenance", with respect to instructional and research equipment obtained with funding under this title, shall mean the care necessary to the optimal functioning of such equipment. With respect to the equipment and structural changes related to obtaining and sustaining the necessary environment (ventilation, etc.) for proper functioning of instructional and research equipment, "maintenance" shall mean that portion of care above and beyond normal overhead costs.

(5) The term "Federal share" means in the case of any project a percentage (as determined under the applicable State plan) not in excess of 50 percent of its development cost.

(6) The term "higher education building agency" means (A) an agency, public authority, or other instrumentality of a State authorized to provide, or finance the construction, reconstruction, or renovation of, academic facilities for institutions of higher education (whether or not also authorized to provide or finance other facilities for such or other educational institutions, or for their students or faculty), or (B) any corporation (no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual (i) established by an institution of higher education for the sole purpose of providing academic facilities for the use of such institution, and (ii) upon dissolution of which, all title to any property purchased or built from the proceeds of any loan made under part C will pass to such institution), or (C) an institution of postsecondary education.

(7) The term "public community college and public technical institute" means an institution of higher education which is under public supervision and control, and is organized and administered principally to provide a 2-year program which is acceptable for full credit toward a bachelor's degree, or a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge; and the term includes a branch of an institution of higher education offering 4 or more years of higher education which is located in a community different from that in which its parent institution is located.

(8) The term "public educational institution" does not include a school or institution of any agency of the United States.

(9) The term "State" includes in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1132i-1) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1542; amended June 3, 1987, P.L. 100-50, sec. 19(6), 101 Stat. 360.

SALES OF OBLIGATIONS REQUIRED

Sec. 783. The Secretary shall sell, at public or private sale, obligations held under parts C and F of this title upon such terms as the Secretary may fix and in such amounts as the Secretary determines will carry out the directions in the concurrent resolution on the budget for the fiscal year 1987 (S. Con. Res. 120, 99th Congress, agreed to June 27, 1986), but the Secretary shall not sell obligations having a market value of more than $579,000,000 in fiscal year 1987 and more than $314,000,000 in fiscal year 1988.

(20 U.S.C. 1132i-2) Enacted October 17, 1986, P.L. 99-498, sec. 701, 100 Stat. 1545.

TITLE VIII—COOPERATIVE EDUCATION

APPROPRIATIONS AUTHORIZED; RESERVATIONS

Sec. 801. (a) Appropriations Authorized.—There are authorized to be appropriated to carry out this title $17,000,000 for fiscal year 1987, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(b) Reservations.—Of the amounts appropriated in each fiscal year—

(1) not less than 75 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions for cooperative education under section 802;

(2) not to exceed 12½ percent shall be available for demonstration projects under paragraph (1) of section 803(a);

(3) not to exceed 10 percent shall be available for training and resource centers under paragraph (2) of section 803(a); and

(4) not to exceed 2½ percent shall be available for research under paragraph (3) of section 803(a).

(c) Availability of Appropriations.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

(20 U.S.C. 1133) Enacted October 16, 1968, P.L. 90-575, sec. 251, 82 Stat. 1042; amended June 23, 1972, P.L. 92-318, sec. 172, 86 Stat. 304; amended October 12, 1976, P.L. 94-482, sec. 129(b), 90 Stat. 2144, 2145; amended October 3, 1980, P.L. 96-374, secs. 801 (a), (b), 1391, 94 Stat. 1481, 1482, 1503; amended October 17, 1986, P.L. 99-498, sec. 801, 100 Stat. 1546.

GRANTS FOR COOPERATIVE EDUCATION PROGRAMS

Sec. 802. (a) Grants Authorized; Maximum Amount of Grant.—(1) The Secretary is authorized, from the amount available under section 801(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education, or to combinations of such institutions, to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions.

(2)(A) Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

(B) The amount of each grant shall not exceed $500,000 to any institution of higher education or combination of such institutions in any fiscal year.

(b) APPLICATIONS.—Each institution of higher education, or combination of institutions desiring to receive a grant under this title shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

(1) set forth the program or activities for which a grant is authorized under this section;

(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

(4) describe the plans which the applicant will carry out to assure that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1);

(5) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate candidates and who carry at least one-half the normal full time academic workload;

(6) provide that the applicant will—

(A) make such reports as may be essential to insure that the applicant is complying with the provisions of this section, including in the reports for the second and each succeeding fiscal year for which the applicant receives a grant data with respect to the impact of the cooperative education program in the previous fiscal year, including—

(i) the number of students enrolled in the cooperative education program,

(ii) the number of employers involved in the program,

(iii) the income of the students enrolled, and

(iv) the increase or decrease of enrollment in the program in the second previous year compared to such previous fiscal year; and

(B) keep such records as are essential to insure that the applicant is complying with the provisions of this title;

(7) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title; and

(8) include such other information as is essential to carry out the provisions of this title.

(c) DURATION OF GRANTS; FEDERAL SHARE.—(1)(A) Except as provided in paragraph (3), no individual unit of an institution of higher education may receive, individually or as a participant in a combination of such institutions, grants under this section for more than 5 fiscal years.

(B) The limitation contained in subparagraph (A) shall apply to each institution of higher education or participant in a combination of such institutions whether the grant was received before or after the date of enactment of the Higher Education Amendments of 1986.

(2) The Federal share of a grant under this section may not exceed—

(A) 90 percent of the cost of carrying out the application in the first year the applicant receives a grant under this section;

(B) 80 percent of such cost in the second such year;

(C) 70 percent of such cost in the third such year;

(D) 60 percent of such cost in the fourth such year; and

(E) 30 percent of such cost in the fifth such year.

(3) Any institution of higher education, or participant in a combination of such institutions which—

(A) has received a grant for 5 fiscal years under this section;

(B) has conducted without Federal assistance a cooperative education program for at least 2 academic years subsequent to the end of the fifth such fiscal year;

(C) has expended for the cooperative education program for each such subsequent academic year an amount at least equal to the total cost of the program in the fifth fiscal year in which the institution, or participant, received assistance under this section; and

(D) provides statistics in the application required under subsection (b) on the number of students enrolled in the cooperative education program, the number of institutional personnel, including faculty advisers and cooperative education coordinators, and the income of the students enrolled, for each such year;

may apply under subsection (b) as an institution, or participant, to which subparagraph (A) of paragraph (2) applies.

(4) Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

(d) FACTORS FOR SPECIAL CONSIDERATION OF APPLICATIONS.—(1) In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education for programs which show the greatest promise of success because of—

(A) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by public and private sector employers,

(B) the commitment of the institution of higher education to cooperative education has demonstrated by the plans which such institution has made to continue the program after the termination of Federal financial assistance,

(C) the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit, and

(D) such other factors as are consistent with the purposes of this section.

(2) The Secretary shall also give special consideration to applications from institutions of higher education or combinations thereof which demonstrate a commitment to serving special populations such as women, the handicapped and Black, Mexican American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamian (Chamorro), and Northern Marianian students.

(20 U.S.C. 1133a) Enacted Oct. 16, 1968, P.L. 90-575, sec. 251, 82 Stat. 1043; amended June 23, 1972, P.L. 92-318, sec. 171, 86 Stat. 304; amended October 12, 1976, P.L. 94-482, sec. 129(b), 90 Stat. 2145, 2146; amended October 3, 1980, P.L. 96-374, secs. 801(c), (d), 1391, 94 Stat. 1482, 1503; amended October 17, 1986, P.L. 99-498, sec. 801, 100 Stat. 1546.

DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH

SEC. 803. (a) AUTHORIZATION.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 801(b)(2);

(2) the conduct of training and resource centers designed to—

(A) train personnel in the field of cooperative education;

(B) improve materials used in cooperative education programs;

(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to continue to conduct a cooperative education program without Federal assistance;

(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need; and

(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with another institution of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs,

from the amounts available in each fiscal year under section 801(b)(3); and

(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 801(b)(4).

(b) ADMINISTRATIVE PROVISION.—To carry out this section, the Secretary may—

(1) make grants to or contracts with institutions of higher education, or combinations of such institutions, and

(2) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

(c) SUPPLEMENT NOT SUPPLANT.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.

(20 U.S.C. 1133b) Enacted Oct. 16, 1968, P.L. 90-575, sec. 251, 82 Stat. 1043; amended October 12, 1976, P.L. 94-482, sec. 129(b), 90 Stat. 2146; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99-498, sec. 801, 100 Stat. 1548.

TITLE IX—GRADUATE PROGRAMS

PART A—GRANTS TO INSTITUTIONS TO ENCOURAGE MINORITY PARTICIPATION IN GRADUATE EDUCATION

PROGRAM AUTHORIZED

SEC. 901. The Secretary shall make grants to institutions of higher education to enable such institutions to identify talented undergraduate students who demonstrate financial need and are from minority groups underrepresented in graduate education, and provide such students with an opportunity to participate in a program of research and scholarly activities at such institution designed to provide such students with effective preparation for graduate study in such field or related fields.

(20 U.S.C. 1134) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 304; amended October 12, 1976, P.L. 94-482, sec. 171(a)(1), (a)(2), 90 Stat. 2159; amended October 3, 1980, P.L. 96-374, secs. 901(a), 1391, 94 Stat. 1482, 1503; amended October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1549.

SUBMISSION AND CONTENTS OF APPLICATIONS

SEC. 902. (a) REQUIRED INFORMATION.—Each institution of higher education shall submit an application under this part to the Secretary in such form and containing such information as the Secretary may by regulation prescribe. Each such application shall provide information regarding—

(1) the program of study, to take the form of summer research internships, seminars, and other educational experiences;

(2) the institution's plan for identifying and recruiting talented minority undergraduates;

(3) the participation of faculty in the program and a detailed description of the research in which students will be involved;

(4) a plan for the evaluation of the effectiveness of the program; and

(5) such other assurances and information as the Secretary may require by regulation.

(b) Selection Requirements.—In making awards to institutions—

(1) the Secretary shall consider the quality of the research in which students will be involved as well as the recruitment program and program of study; and

(2) the Secretary shall ensure an equitable geographic distribution among public and private institutions of higher education.

(20 U.S.C. 1134a) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 305; amended October 12, 1976, P.L. 94-482, sec. 171(a)(3), 90 Stat. 2159; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1550.

USE OF FUNDS

Sec. 903. Awards made to institutions under this part shall be used exclusively to provide direct fellowship aid which may include need-based stipends, room and board costs, transportation costs, and tuition for courses for which credit is given by the institution as approved by the Secretary.

(20 U.S.C. 1134b) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 305, 306; amended October 12, 1976, P.L. 94-482, sec. 171(a)(4), 90 Stat. 2160; amended October 3, 1980; P.L. 96-374, secs. 901(b), 1391, 94 Stat. 1482, 1503; amended October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1550.

Part B—Patricia Roberts Harris Fellowships

STATEMENT OF PURPOSE; DESIGNATION OF AWARDS

Sec. 921. (a) Purpose.—It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of a post-baccalaureate education to graduate and professional students who demonstrate financial need.

(b) Designation.—Each recipient of such an award under this part shall be known as a "Patricia Roberts Harris Fellow".

(20 U.S.C. 1134d) Enacted June 30, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306; amended October 12, 1976, P.L. 94-482, sec. 171(b), 90 Stat. 2160; amended October 3, 1980, P.L. 96-374, sec. 902(a), 94 Stat. 1482; amended October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1550.

PROGRAM AUTHORIZED

Sec. 922. (a) Grants by Secretary.—The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

(b) Distribution and Amounts of Grants.—(1) In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

(2) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not

needed to institutions which can use the grants authorized by this part.

(c) APPLICATIONS.—Any eligible institution of higher education offering a program of post-baccalaureate study leading to a graduate or professional degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of professional schools, academic departments, or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

(d) SELECTION OF APPLICATIONS.—In making grants to institutions of higher education, the Secretary shall—

(1) take into account present and projected needs for highly trained individuals in all areas of education beyond secondary school;

(2) take into account present and projected needs for highly trained individuals in other than academic career fields of high national priority; and

(3) consider the need to prepare a larger number of individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities, but nothing contained in this paragraph shall be interpreted to require any institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

(e) PRIORITIES FOR FELLOWSHIPS.—The Secretary shall assure that, in making grants under this part, awards are made to—

(1) individuals who plan to pursue a career in public service; and

(2) individuals from traditionally underrepresented groups, as determined by the Secretary, undertaking graduate or professional study.

The Secretary shall assure that the amount expended for categories of fellowships described in paragraphs (1) and (2) of this subsection for each fiscal year is not less than the amount expended for each category in fiscal year 1985.

(f) INSTITUTIONAL PAYMENTS.—From sums required to be expended by the Secretary for grants under subsection (e), the Secretary shall (in addition to the awards made to individuals) pay to the institution of higher education at which such individual is pursuing his or her course of study such amounts as are paid under similar fellowship programs administered through the National Science Foundation and other similar agencies, except that such amount charged to a fellowship recipient and collected from such recipient by the institution for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payments to the institution under this subsection.

(g) Use for Religious Purposes Prohibited.—No fellowship shall be awarded under this part for study at a school or department of divinity.

(20 U.S.C. 1134e) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306; amended October 12, 1976, P.L. 94-482, sec. 171(b), 90 Stat. 2160; amended October 3, 1980, P.L. 96-374, sec. 902(a), 94 Stat. 1482; amended October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1550.

AWARD OF FELLOWSHIPS

Sec. 923. (a) Awards Based on Need.—An institution of higher education receiving funds under this part shall make available to financially needy graduate and professional students an award determined by such institution of higher education, except that no award under this part may exceed the lesser of $10,000, or the demonstrated level of financial need as determined under part F of title IV of this Act.

(b) Requirements for Award.—No student shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award of a degree) in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 3-year period set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient upon review of an application for such extension by the recipient.

(20 U.S.C. 1134f) Enacted June 23, 1972, P.L. 92-318, sec. 181(a), 86 Stat. 306, 307; amended October 12, 1976, P.L. 94-482, sec. 171(b), 90 Stat. 2160, 2161; amended October 3, 1980, P.L. 96-374, sec. 902(a), 94 Stat. 1484.; amended October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1552.

Part C—Jacob K. Javits Fellows Program

AWARD OF JACOB K. JAVITS FELLOWSHIPS

Sec. 931. (a) Number and Timing of Awards.—The Secretary is authorized to award not more than 450 fellowships per year in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only one academic year of study and shall be renewable for a period not to exceed 4 years of study.

(b) Designation of Fellows.—Students receiving awards under this part shall be known as "Jacob K. Javits Fellows".

(c) Interruptions of Study.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

(20 U.S.C. 1134h) Enacted October 3, 1980, P.L. 96-374, sec. 903, 94 Stat. 1484; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 908; amended October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1552; amended June 3, 1987, P.L. 100-50, sec. 20(1), 101 Stat. 360.

ALLOCATION OF FELLOWSHIPS

Sec. 932. (a) Fellowship Board.—(1) The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board consisting of not less than 9 and not more than 15 individuals prior to July 31, 1987, 13 individuals after July 31, 1987, and prior to August 1, 1989, 11 individuals after July 31, 1989, and prior to August 1, 1991, and 9 individuals after July 31, 1991, representatives of both public and private institutions of higher education especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in doctoral education in arts, humanities, and social sciences.

(2) The Board shall—

(A) establish general policies for the program established by this part and oversee its operation;

(B) establish general criteria for the distribution of fellowships among eligible academic fields identified by the Board;

(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows; and

(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

(3) In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institutions, learned societies, and professional organizations.

(4) The term of office of each member of the Board shall be 4 years; except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

(5) The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairman and a Vice Chairman, who shall serve until one year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the

Board shall elect an individual from among the members of the Board to fill such vacancy.

(6)(A) A majority of the members of the Board shall constitute a quorum.

(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

(7) Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate prescribed for GS–18 of the General Schedule under section 5332, title 5, United States Code, including traveltime; and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Fellowship Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Fellowship Board.

(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

(20 U.S.C. 1134i) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1485; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1553; amended June 3, 1987, P.L. 100–50, sec. 19(2)–(3), 101 Stat. 360.

STIPENDS

SEC. 933. (a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this part such stipends (including such allowances for subsistence and other expenses for such individuals and their dependents) as the Secretary may determine to be appropriate, adjusting such stipends as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary. The stipend levels established by the Secretary shall reflect the purpose of this program to encourage highly talented students to undertake graduate study and shall provide a level of support comparable to that provided by federally funded graduate fellowships in the science and engineering fields.

(b) INSTITUTIONAL PAYMENTS.—(1) The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education, for each individual awarded a fellowship for pursuing a course at such institution, $6,000, except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment to the institution under this subsection.

(2) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall

not be reduced for any purpose other than the purposes specified under paragraph (1).

(20 U.S.C. 1134j) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1486; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1554; amended June 3, 1987, P.L. 100–50, sec. 19(4), 101 Stat. 360.

FELLOWSHIP CONDITIONS

SEC. 934. (a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as the Secretary finds that he is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and to file at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

(20 U.S.C. 1134k) Enacted October 3, 1980, P.L. 96–374, sec. 903, 94 Stat. 1486; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1554.

PART D—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

PURPOSE

SEC. 941. In order to sustain and enhance the capacity for teaching and research in areas of national need, it is the purpose of this part to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need.

(20 U.S.C. 1134l) Enacted October 3, 1980, P.L. 96–374, sec. 904, 94 Stat. 1486; amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1555.

GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS

SEC. 942. (a) GRANT AUTHORITY.—(1) The Secretary shall make grants to academic departments and programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this part.

(2) The Secretary may also make grants to such departments and programs and to other units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-grant-

ing institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

(A) is described in section 501(c)(3) of the Internal Revenue Code of 1954, and is exempt from tax under section 501(a) of such Code;

(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

(C) is not a private foundation;

(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

(E) has necessary research resources not otherwise readily available in such institutions to such students.

(b) AWARD AND DURATION OF GRANTS.—(1) The principal criterion for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in making such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

(2) The Secretary shall approve a grant recipient under this part for a 3-year period. From the sums appropriated under this part for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $500,000 per fiscal year.

(3) Whenever the Secretary determines that an academic department or program of an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments and programs of institutions which can use the grants authorized by this part.

(c) PREFERENCE TO CONTINUING GRANT RECIPIENTS.—(1) The Secretary shall make new grant awards under this part only to the extent that each previous grant recipient has received continued funding in accordance with subsection (b)(2).

(2) To the extent that appropriations under this part are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded by subsection (b)(2).

(20 U.S.C. 1134m) Enacted October 3, 1980, P.L. 96-374, sec. 904, 94 Stat. 1487; amended October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1555.

INSTITUTIONAL ELIGIBILITY

SEC. 943. (a) ELIGIBILITY CRITERIA.—Any academic department or program of an institution of higher education that offers a program of post-baccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b)) may apply for a grant under this part. No department or program shall be eligible for a grant unless the program of post-baccalaureate study has been in existence for at least 4 years at the time of application for assistance under this part.

(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with the National Science Foundation, the National Academy of Sciences, the National Endowments for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need, such as mathematics, biology, physics, chemistry, engineering, geosciences, computer science, or foreign languages or areas studies. In making such designations, the Secretary shall take into account the extent to which the interest is compelling and the extent to which other Federal programs support post-baccalaureate study in the area concerned.

(20 U.S.C. 1134n) Enacted October 3, 1980, P.L. 96-374, sec. 905, 94 Stat. 1487; renumbered and amended October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1556.

CRITERIA FOR APPLICATIONS

SEC. 944. (a) SELECTION OF APPLICATIONS.—The Secretary shall make grants to academic departments and programs of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by geographically balanced review panels of nationally recognized scholars. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

(b) CONTENTS OF APPLICATIONS.—An academic department or program of an institution of higher education, in its application for a grant, shall—

(1) describe the current academic program of the applicant for which the grant is sought;

(2) provide assurances that the applicant will provide, from other non-Federal funds, for the purposes of the fellowship program under this part an amount equal to at least 25 percent of the amount of the grant received under this part;

(3) set forth policies and procedures to assure that, in making fellowship awards under this part the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

(4) set forth policies and procedures to assure that, in making fellowship awards under this part, the institution will make awards to individuals who—

(A) have financial need, as determined under criteria developed by the institution;

(B) have excellent academic records in their previous programs of study;

(C) plan teaching or research careers; and

(D) plan to pursue the highest possible degree available in their course of study;

(5) set forth policies and procedures to ensure that Federal funds made available under this part for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this part and in no case to supplant those funds;

(6) provide assurances that, in the event that funds made available to the academic department or program under this part are insufficient to provide the assistance due a student under the commitment entered into between the academic department or program and the student, the academic depart-

ment or program will endeavor, from any funds available to it, to fulfill the commitment to the student;

(7) provide that the applicant will comply with the limitations set forth in section 945; and

(8) include such other information as the Secretary may prescribe.

(20 U.S.C. 1134o) Enacted October 3, 1980, P.L. 96–374, sec. 905, 94 Stat. 1488; renumbered and amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1556.

AWARDS TO GRADUATE STUDENTS

Sec. 945. (a) Commitments to Graduate Students.—(1) From at least 60 percent of the funds received under this part, an academic department or program of an institution of higher education shall make commitments to graduate students at any point of their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

(2) No such commitments shall be made to students under this part unless the academic department or program has determined adequate funds are available to fulfill the commitment either from funds received or anticipated under this part, or from institutional funds.

(b) Amount of Stipends.—The size of the stipend awarded to students for an individual academic year shall be determined by the institution, except that no annual stipend award under this part may exceed $10,000, or the demonstrated level of need (according to criteria of need developed by the institution), whichever is less.

(c) Academic Progress Required.—Notwithstanding the provisions of subsection (a), no student shall receive an award (1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or (2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

(20 U.S.C. 1134p) Enacted October 3, 1980, P.L. 96–374, sec. 905, 94 Stat. 1488; renumbered and amended October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1557.

ADDITIONAL ASSISTANCE FOR COST OF EDUCATION

Sec. 946. (a) Use for Tuition and Fees.—From the remainder of the funds received under this part after complying with the requirements of section 945, the academic department or program of an institution of higher education may award fellowship recipients under section 945 additional amounts to pay the recipients' tuition and fees and other costs of education.

(b) Use for Overhead Prohibited.—Funds made available pursuant to this part may not be used for the general operational overhead of the academic department or program.

(20 U.S.C. 1134q) Enacted October 17, 1986, P.L. 99–498, sec. 901(a), 100 Stat. 1558.

PART E—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

PROGRAM AUTHORIZED

SEC. 951. (a) GRANTS AND CONTRACTS.—The Secretary is authorized to make grants to, or enter into contracts with, public and private agencies and organizations other than institutions of higher education for the purpose of assisting individuals from disad- vantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake training for the legal profession.

(b) USE OF FUNDS.—Grants made, and contracts entered into, under subsection (a) may cover, in accordance with regulations of the Secretary, all or part of the cost of—

(1) selecting individuals from disadvantaged backgrounds for training for the legal profession,

(2) facilitating the entry of such individuals into institutions of higher education for the purpose of pursuing such training,

(3) providing counseling or other services designed to assist such individuals to complete successfully such training,

(4) providing, for not more than 6 months prior to the entry of such individuals upon their courses of training for the legal profession, preliminary training for such individuals designed to assist them to complete successfully such training for the legal profession,

(5) paying such stipends (including allowances for travel and for dependents) as the Secretary may determine for such individuals for any such period of preliminary training or for any period of training for the legal profession during which such individuals maintain satisfactory academic proficiency, as determined by the Secretary, and

(6) paying for administrative activities of the agencies and organizations which receive such grants, or with which such contracts are entered into, to the extent such activities are for the purpose of furthering activities described in paragraphs (1) through (5).

(20 U.S.C. 1134r) Enacted October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1558.

PART F—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

PROGRAM AUTHORIZATION

SEC. 961. (a) GRANT AND CONTRACT PURPOSES.—The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 per centum of the costs of establishing or expanding programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. Preference shall be given to those programs providing legal experience in the preparation and trial of actual cases, including administrative cases and the settlement of controversies outside the courtroom. The cases and situations handled in actuality or by simulation may encompass any one or more of the following:

(1) judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor;

(2) office or house counsel problems; or

(3) factual investigation, empirical research, or policy or legal analysis.

(b) Use of Funds.—Such costs may include necessary expenditures incurred for—

(1) planning;

(2) training of faculty members and salary for additional faculty members;

(3) travel and per diem for faculty and students;

(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

(5) equipment and library resources;

(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

(7) such other items as are allowed pursuant to regulations issued by the Secretary.

(c) Limitations on Amounts.—No law school may receive more than $100,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

(d) Definition.—For the purpose of this part, the term "accredited law school" means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

(20 U.S.C. 1134s) Enacted October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1558.

APPLICATIONS

Sec. 962. (a) Requirements.—A grant or contract authorized by this part may be made by the Secretary upon application which—

(1) is made at such time or times and contains such information as the Secretary may prescribe;

(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

(b) Distribution of Grants and Contracts.—The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

(20 U.S.C. 1134t) Enacted October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1559.

PART G—AUTHORIZATION OF APPROPRIATIONS

AMOUNT AND DURATION OF AUTHORIZATION

SEC. 971. (a) PART A.—There are authorized to be appropriated to carry out part A of this title $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(b) PART B.—There are authorized to be appropriated to carry out part B of this title $30,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(c) PART C.—There are authorized to be appropriated to carry out part C of this title $10,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(d) PART D.—There are authorized to be appropriated to carry out part D of this title $30,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(e) PART E.—There are authorized to be appropriated to carry out part E of this title $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(f) PART F.—There are authorized to be appropriated to carry out part F of this title $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(g) LIMITATION ON APPROPRIATIONS FOR PARTS A AND D.—No funds are authorized to be appropriated for part A or D of this title for any fiscal year unless the appropriation for the preceding fiscal year—

(1) for part B equals or exceeds $18,000,000; and

(2) for part C equals or exceeds $5,000,000.

(20 U.S.C. 1132u) Enacted October 17, 1986, P.L. 99-498, sec. 901(a), 100 Stat. 1560.

TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS

PART A—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

AUTHORIZATION OF PROGRAM

SEC. 1001. Subject to the provisions of section 1002, the Secretary is authorized to make grants to, and contracts with, institutions of postsecondary education (including combinations of such institutions) and other public and private educational institutions and agencies (except that no grant shall be made to an educational institution or agency other than a nonprofit institution or agency) to improve postsecondary educational opportunities by providing assistance to such educational institutions and agencies for—

(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

(3) the establishment of institutions and programs based on the technology of communications;

(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

(5) the design and introduction of cost-effective methods of instruction and operation;

(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

(20 U.S.C. 1135) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 312, 313; amended October 12, 1976, P.L. 94-482, sec. 176(a)(3), (a)(4), (a)(5), 90 Stat. 2165; amended November 15, 1977, P.L. 95-180, 91 Stat. 1372; amended October 3, 1980, P.L. 96-374, sec. 1001(a), 94 Stat. 1489.

CONSULTATION

SEC. 1002. No grant shall be made or contract entered into under section 1001 for a project or program with any institution of postsecondary education unless it has been submitted to the appropriate State entity having an agreement under section 1203, and an opportunity has been afforded such entity to submit its comments and recommendations to the Secretary.

(20 U.S.C. 1135a) Enacted October 3, 1980, P.L. 96-374, sec. 1001(a), 94 Stat. 1489.

NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 1003. (a) There is established a National Board of the Fund for the Improvement of Postsecondary Education. The Board shall consist of fifteen members appointed by the Secretary for overlapping three-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for six consecutive years shall thereafter be ineligible for appointment to the Board during a two-year period following the expiration of such sixth year.

(b) The Secretary shall designate one of the members as Chairman. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

(c) The Board shall—

(1) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(2) advise the Secretary and the Director of the Fund for the Improvement of Postsecondary Education on priorities for the improvement of postsecondary education and make such recommendations as it may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

(3) advise the Secretary and the Director of the Fund on the operation of the Fund, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

(4) meet at the call of the Chairman, except that it shall meet (A) at least four times during each fiscal year, or (B) whenever one-third of the members request in writing that a meeting be held.

(d) The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

(20 U.S.C. 1135a-1) Enacted October 3, 1980, P.L. 96-374, sec. 1001(a), 94 Stat. 1490; amended October 17, 1986, P.L. 99-498, sec. 1001(a), 100 Stat. 1560.

ADMINISTRATIVE PROVISIONS

SEC. 1004. (a) The Secretary may appoint, for terms not to exceed three years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than five technical employees to administer this title who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this title. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

(20 U.S.C. 1135a-2) Enacted October 3, 1980, P.L. 96-374, sec. 1001(a), 94 Stat. 1490.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1005. There are authorized to be appropriated to carry out this part $14,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(20 U.S.C. 1135a-3) Enacted October 3, 1980, P.L. 96-374, sec. 1001(a), 94 Stat. 1491; amended October 17, 1986, P.L. 99-498, sec. 1001(a), 100 Stat. 1561.

PART B—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS

SUBPART 1—MINORITY SCIENCE IMPROVEMENT PROGRAM

PURPOSE; AUTHORITY

SEC. 1021. (a) It is the purpose of this subpart to continue the authority of the Department to operate the Minority Institutions Science Improvement Program created under section 3(a)(1) of the National Science Foundation Act of 1950 and transferred to the Department by section 304(a)(1) of the Department of Education Organization Act of 1979.

(b) The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the participation of underrepresented ethnic minorities in scientific and technological careers.

(20 U.S.C. 1135b) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1561.

GRANT RECIPIENT SELECTION

SEC. 1022. (a) ESTABLISHMENT OF CRITERIA.—Grants under this subpart shall be awarded on the basis of criteria established by the Secretary by regulations.

(b) PRIORITIES TO BE GIVEN IN CRITERIA.—In establishing criteria under subsection (a), the Secretary shall give priority to applicants which have not previously received funding from the Minority Institutions Science Improvement Program and to previous grantees with a proven record of success, as well as to applications that contribute to achieving balance among projects with respect to geographic region, academic discipline, and project type.

(c) REQUIRED CRITERIA.—In establishing criteria under subsection (a), the Secretary may consider the following selection criteria in making grants:

(1) plan of operation;
(2) quality of key personnel;
(3) budget and cost effectiveness;
(4) evaluation plan;
(5) adequacy of resources;
(6) identification of need for the project;
(7) potential institutional impact of the project;
(8) institutional commitment to the project;
(9) expected outcomes; and
(10) scientific and educational value of the proposed project.

(20 U.S.C. 1135b-1) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1561.

USE OF FUNDS

SEC. 1023. (a) TYPES OF GRANTS.—Funds appropriated to carry out this subpart may be made available as—

(1) institutional grants (as defined in section 1046(6));
(2) cooperative grants (as defined in section 1046(7));

(3) design projects (as defined in section 1046(8)); or

(4) special projects (as defined in section 1046(9)).

(b) AUTHORIZED USES FOR EACH TYPE OF GRANT.—(1) The authorized uses of funds made available as institutional grants include (but are not limited to)—

(A) faculty development programs; or

(B) development of curriculum materials.

(2) The authorized uses of funds made available as cooperative grants include (but are not limited to)—

(A) assisting institutions in sharing facilities and personnel;

(B) disseminating information about established programs in science and engineering;

(C) supporting cooperative efforts to strengthen the institutions' science and engineering programs; or

(D) carrying out a combination of any of the activities in subparagraphs (A) through (C).

(3) The authorized uses of funds made available as design projects include (but are not limited to)—

(A) developing planning, management, and evaluation systems; or

(B) developing plans for initiating scientific research and for improving institutions' capabilities for such activities.

Funds used for design project grants may not be used to pay more than 50 percent of the salaries during any academic year of faculty members involved in the project.

(4) The authorized uses of funds made available as special projects include (but are not limited to)—

(A) advanced science seminars;

(B) science faculty workshops and conferences;

(C) faculty training to develop specific science research or education skills;

(D) research in science education;

(E) programs for visiting scientists;

(F) preparation of films or audio-visual materials in science;

(G) development of learning experiences in science beyond those normally available to minority undergraduate students;

(H) development of pre-college enrichment activities in science; or

(I) any other activities designed to address specific barriers to the entry of minorities into science.

(20 U.S.C. 1135b–2) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1562.

ADMINISTRATION

SEC. 1024. The Secretary shall submit to the Congress on an annual basis a list of grantees receiving awards under this part.

(20 U.S.C. 1135b–3) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1562.

SUBPART 2—SCIENCE AND ENGINEERING ACCESS PROGRAMS

MINORITY SUPPORT IN SCIENCE AND ENGINEERING PROGRAMS

SEC. 1031. The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support programs for minority students enrolled in science and engineering programs at institutions with a significant minority enrollment (at least 10 percent).

(20 U.S.C. 1135c) Enacted June 23, 1972, P.L. 92-218, sec. 186(a)(1), 86 Stat. 322, 323; amended October 3, 1980, P.L. 96–374, secs. 1001(b), 1391, 94 Stat. 1491, 1503; renumbered and amended October 17, 1986, P.L. 99–498, sec. 1002, 100 Stat. 1563.

SPECIAL SERVICE PROJECTS PROGRAM

SEC. 1032. The Secretary shall, in accordance with the provisions of this subpart, carry out a program of making grants to institutions of higher education that are designed to provide or improve support to accredited colleges and universities and professional scientific societies for a broad range of activities designed to eliminate or reduce specific barriers to the entry of minorities into science and technology.

(20 U.S.C. 1135c-1) Enacted June 23, 1972, P.L. 92-318, sec. 186(a)(1), 86 Stat. 323; amended October 3, 1980, P.L. 96-374, secs. 1001(b), 1391, 94 Stat. 1491, 1503; amended October 19, 1984, P.L. 98-524, sec. 4(c)(3), 98 Stat. 2488; renumbered and amended October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1563.

SUPPORTABLE ACTIVITIES

SEC. 1033. Funds appropriated for the purpose of this subpart may be made available for—

(1) providing needed services to groups of minority institutions or providing training for scientists and engineers from eligible minority institutions;

(2) providing needed services to groups of institutions serving significant numbers of minority students or providing training for scientists and engineers from such institutions to improve their ability to train minority students in science or engineering;

(3) assisting minority institutions to improve the quality of preparation of their students for graduate work or careers in science, mathematics, and technology;

(4) improving access of undergraduate students at minority institutions to careers in the sciences, mathematics, and engineering;

(5) improving access of minority students to careers in the sciences, mathematics, and engineering;

(6) improving access for pre-college minority students to careers in science, mathematics, and engineering through community outreach programs conducted through colleges and universities eligible for support through the Minority Science and Engineering Improvement Programs;

(7) disseminating activities, information, and educational materials designed to address specific barriers to the entry of minorities into science and technology, and conducting activities and studies concerning the flow of underrepresented ethnic minorities into scientific careers;

(8) supporting curriculum models to encourage minority student participation in research careers in science, mathematics, and technology; and

(9) improving the capability of minority institutions for self-assessment, management, and evaluation of their science, mathematics, and engineering programs and dissemination of their results.

(20 U.S.C. 1135c-2) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1563.

SUBPART 3—ADMINISTRATIVE AND GENERAL PROVISIONS

ELIGIBILITY FOR GRANTS

SEC. 1041. Eligibility to receive grants under this part is limited to—

(1) public and private nonprofit institutions that are minority institutions (as defined in section 1046(3));

(2) nonprofit science-oriented organizations, professional scientific societies, and all nonprofit, accredited colleges and universities which provide a needed service to a group of eligible minority institutions or which provide in-service training for project directors, scientists, and engineers from eligible minority institutions; and

(3) for the purposes of section 1032, public and private nonprofit institutions that have at least 10 percent minority enrollment.

(20 U.S.C. 1135d) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1564.

GRANT APPLICATION

SEC. 1042. (a) SUBMISSION AND CONTENTS OF APPLICATIONS.—An eligible applicant (as determined under section 1041) that desires to receive a grant under this part shall submit to the Secretary an application therefor at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth—

(1) a program of activities for carrying out one or more of the purposes described in section 1021(b) in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purpose or purposes; and

(2) such other policies, procedures, and assurances as the Secretary may require by regulation.

(b) APPROVAL BASED ON LIKELIHOOD OF PROGRESS.—The Secretary shall approve an application only if the Secretary determines that the application sets forth a program of activities which are likely to make substantial progress toward achieving the purposes of this part.

(20 U.S.C. 1135d-1) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1564.

CROSS PROGRAM AND CROSS AGENCY COOPERATION

SEC. 1043. The Minority Science and Engineering Improvement Programs shall cooperate with other programs within the Department and within Federal, State, and private agencies which carry out programs to improve the quality of science, mathematics, and engineering education.

(20 U.S.C. 1135d-2) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1564.

ADMINISTRATIVE PROVISIONS

SEC. 1044. (a) TECHNICAL STAFF.—The Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not less than 2 technical employees with appropriate scientific and educational background to administer the programs under this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) PROCEDURES FOR GRANT REVIEW.—The Secretary shall establish procedures for reviewing and evaluating grants and contracts made or entered into under such programs. Procedures for reviewing grant applications, based on the peer review system, or contracts for financial assistance under this title may not be subject to any review outside of officials responsible for the administration of the Minority Science and Engineering Improvement Programs.

(20 U.S.C. 1135d-3) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1564.

ADVISORY PROVISIONS

SEC. 1045. (a) ADVISORY BOARD FOR THE MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAMS.—There shall be established an Advisory Board for the Minority Science and Engineering Improvement Programs. The Board shall consist of 9 members, at least 6 of whom must be racial and national origin minority scientists, engineers, or science or engineering educators. In constituting the initial Board under subsection (c), efforts shall be made to achieve a balance on the Board with respect to sexual, geographic, and institutional background.

(b) PURPOSES OF THE BOARD.—The Board shall act as an advisory group to the program. Drawing on the expertise of members, the Board will recommend to the Secretary and the director of the program those policies, procedures, and other measures which will further the efforts made through the program to improve the quality of science and engineering education by contributing to the access and retention of ethnic minorities in science and engineering education programs. Upon the request of the Secretary, the Board may be called upon to advise the Secretary on any matters within the Department which could be expected to have an impact on the access of minority students to careers in science, mathematics, or engineering.

(c) CONSTITUTION OF BOARD.—The initial Board shall be constituted in as follows:

(1) The Director of the Programs shall solicit nominations for the Board from present and past grant recipients of the Minority Institutions Science Improvement Program. The Director shall select from among the nominees 18 candidates whose names shall be given to the Secretary.

(2) The Secretary shall choose 9 Board members from among the 18 presented.

(3) The Secretary shall assign 3 Board members to a 3-year term, 3 members to a 4-year term, and 3 members to a 5-year term. Upon expiration of these initial terms, replacement Board members shall serve for 3-year terms. Board members may serve more than one term.

(4) The Chair of the Board shall be selected by a simple majority vote of Board members and will serve a single term.

(5) Vacancies on the Board shall be filled by the Board soliciting nominees from institutions eligible to receive grants through the Program. From among the nominees the present and immediate past Chair of the Board shall submit at least 2 nominees for each vacancy to the Secretary, who shall fill vacancies from among the names submitted.

(d) COMPENSATION OF THE BOARD.—Members of the Board shall receive compensation at a rate not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS–15 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Board.

(20 U.S.C. 1135d–4) Enacted October 17, 1986, P.L. 99–498, sec. 1002, 100 Stat. 1565.

DEFINITIONS

SEC. 1046. For the purpose of this part—

(1) The term "accredited" means currently certified by a nationally recognized accrediting agency or making satisfactory progress toward achieving accreditation.

(2) The term "minority" means American Indian, Alaskan Native, Black (not of Hispanic origin), Hispanic (including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin), Pacific Islander or other ethnic group underrepresented in science and engineering.

(3) The term "minority institution" means an institution of higher education whose enrollment of a single minority or a combination of minorities (as defined in paragraph (2)) exceeds 50 percent of the total enrollment. The Secretary shall verify this information from the data on enrollments in the higher education general information surveys (HEGIS) furnished by the institution to the Office for Civil Rights, Department of Education.

(4) The term "science" means, for the purpose of this program, the biological, engineering, mathematical, physical, and social sciences, and history and philosophy of science; also included are interdisciplinary fields which are comprised of overlapping areas among two or more sciences.

(5) The term "underrepresented in science and engineering" means a minority group whose number of scientists and engi-

neers per 10,000 population of that group is substantially below the comparable figure for scientists and engineers who are white and not of Hispanic origin.

(6) The term "institutional grant" means a grant that supports the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

(7) The term "cooperative grant" means a grant that assists groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

(8) The term "design projects" means projects that assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs.

(9) The term "special projects" means—

(A) a special project grant to a minority institution which support activities that—

(i) improve the quality of training in science and engineering at minority institutions; or

(ii) enhance the minority institutions' general scientific research capabilities; or

(B) a special project grant to any eligible applicant which supports activities that—

(i) provide a needed service to a group of eligible minority institutions; or

(ii) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

(20 U.S.C. 1135d-5) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1566.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1047. (a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the purposes of this part, $7,500,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(b) APPROPRIATION LIMITATION.—For any fiscal year, 50 percent of the funds under this part shall be allocated for the purpose of section 1021, 33.33 percent for the purpose of section 1031, and 16.67 percent for the purpose of section 1032.

(20 U.S.C. 1135d-6) Enacted October 17, 1986, P.L. 99-498, sec. 1002, 100 Stat. 1567.

PART C—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

STATEMENT OF PURPOSE

SEC. 1061. It is the purpose of this part to support innovative projects in order to determine the feasibility of encouraging student participation in community service projects in exchange for educational services or financial assistance and thereby reduce the debt acquired by students in the course of completing postsecondary educational programs.

(20 U.S.C. 1135e) Enacted October 17, 1986, P.L. 99–498, sec. 1003, 100 Stat. 1567.

INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

Sec. 1062. (a) **General Authority.**—The Secretary is authorized, in accordance with the provisions of this part, to make grants to and contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this part.

(b) **Applications.**—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and contained or accompanied by such information as the Director may require.

(c) **Applicable Procedures.**—(1) No application may be approved under subsection (b) unless the National Board of the Fund for Improvement of Postsecondary Education, under procedures established by the Director, approves the application.

(2) The provisions of section 1004(b) shall apply to grants made under this part.

(20 U.S.C. 1135e–1) Enacted October 17, 1986, P.L. 99–498, sec. 1003, 100 Stat. 1567.

AUTHORIZATION OF APPROPRIATIONS

Sec. 1063. (a) There are authorized to be appropriated to carry out this part, $3,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years.

(b) No funds may be appropriated pursuant to subsection (a) for any fiscal year unless funds are appropriated for part A of this title for such fiscal year.

(20 U.S.C. 1135e–2) Enacted October 17, 1986, P.L. 99–498, sec. 1003, 100 Stat. 1567.

TITLE XI—PARTNERSHIPS FOR ECONOMIC DEVELOPMENT AND URBAN COMMUNITY SERVICE

Part A—Partnerships for Economic Development

FINDINGS AND PURPOSE

Sec. 1101. (a) **Findings.**—The Congress finds that—

(1) there is a need for more systematic and comprehensive efforts to link postsecondary education institutions with State and local governments, labor, business, industry, and community organizations, in order to meet local problems, and to plan, maintain, and attract lasting economic improvement;

(2) effective economic development is enhanced by the active participation of postsecondary education institutions;

(3) the economic vitality and international competitiveness of the United States depends on using all available resources; and

(4) Federal leadership is critical to promoting such competitiveness efforts.

(b) PURPOSE.—The purpose of this part is to encourage the involvement of postsecondary education institutions with units of government, labor, business, industry, and community organizations to—

(1) conduct planning, research, and activities which promote economic development and the expansion and retention of jobs on the local, State, and regional level;

(2) develop programs for job retraining and expanding business and industry opportunities in the area;

(3) enhance local growth initiatives through utilization of their expertise in economic and community development; and

(4) demonstrate new approaches to economic development partnerships and to make them available to other areas of the Nation.

(20 U.S.C. 1136) Enacted Oct. 16, 1968, P.L. 90-575, sec. 281, 82 Stat. 1048; amended June 23, 1972, P.L. 92-318, sec. 191, 86 Stat. 323; amended October 3, 1980, P.L. 96-374, sec. 1101, 94 Stat. 1491; amended October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1568.

USE OF ECONOMIC DEVELOPMENT FUNDS

SEC. 1102. (a) ALLOWABLE ACTIVITIES.—An eligible institution or consortium of such institutions may apply for assistance under this part to support—

(1) planning and research (including applied research) directed at solving local economic development problems, promoting growth, and improving productivity;

(2) resource exchanges between faculty, government personnel, and private sector experts in economic development activities; and

(3) any combination of the activities described in subparagraphs (A) and (B) which promote local economic development.

(b) SPECIAL PROJECTS AUTHORIZED.—Special projects which may be supported under subsection (a)(2) are projects which address broad or national economic development issues, are innovative in their approach, and hold promise of application beyond the area served. Such projects may include—

(1) the application of technology research to manufacturing aspects of mature industries in a region or State;

(2) the design and development of technical assistance centers based at eligible institutions which will provide an integrated program of education, research, and technology transfer to business and industry;

(3) projects to support entrepreneurship training and technical assistance; and

(4) projects to develop new approaches or complement efforts to explore, expand, and foster opportunities for international business and trade.

(c) DISSEMINATION PROJECTS.—In addition to the activities described in subsections (a) and (b), the Secretary is authorized to make a limited number of grants to identify and disseminate effective models and techniques which use partnerships between postsecondary education institutions and others involved in economic development to support economic improvement.

(d) MAXIMUM GRANT.—The maximum grant awarded under subsection (a) for any fiscal year shall be $50,000, except that the limitation contained in this paragraph shall not apply in the case of an application submitted by a consortium of eligible institutions.

(20 U.S.C. 1136a) Enacted Oct. 16, 1968, P.L. 90-575, sec. 281, 82 Stat. 1048-1049; amended June 23, 1972, P.L. 92-318, sec. 191, 86 Stat. 323; amended October 3, 1980, P.L. 96-374, sec. 1101, 94 Stat. 1491; amended October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1568.

REQUIREMENTS FOR ECONOMIC DEVELOPMENT GRANT APPLICATIONS

SEC. 1103. (a) LOCAL INVOLVEMENT.—The Secretary may make grants under this part to an eligible institution or consortium of such institutions that demonstrates in its application a proposed program that will involve the active participation of and commitment of resources and personnel by—

(1) local or State units of governments;

(2) business or industry;

(3) labor unions or union representatives; and

(4) nonprofit organizations concerned with economic development in the area to be served.

(b) GENERAL CONDITIONS.—Each application under this part shall be filed with the Secretary at such time or times as the Secretary may prescribe. The application shall—

(1) set forth a program which is likely to make substantial progress toward achieving the purposes of this part;

(2) provide for an effective dissemination of information on successful results of the activities;

(3) provide assurances that an assessment has been made of Federal and State resources and that the resources are unavailable for the proposed activity;

(4) describe the consultation and, if appropriate, coordination with other Federal and State economic development efforts;

(5) contain assurances that the eligible institution will, to the extent practicable, coordinate its use of resources available for student assistance in a manner which will support the activities conducted under this part;

(6) describe how the plan fits into the overall economic development plan for the area to be served, contributes to long-term economic growth and employment opportunities, and furthers the goals of the postsecondary education institution; and

(7) contain such other information and assurances as the Secretary may require by regulation.

(c) SPECIAL CONSIDERATION.—In making grants under this part, the Secretary shall give special consideration to applications which—

(1) propose to serve an area which—

(A) has an unemployment rate 1 percent above the national average unemployment rate for the most recent 24-month period, or

(B) has experienced or is about to experience sudden economic dislocation resulting in job loss that is significant, both in terms of the number of jobs eliminated and the effect upon the employment rate of the area;

(2) are submitted by a consortia of postsecondary education institutions, including 4- and 2-year, public and private postsecondary education institutions, and provides a regional geographic approach to solving economic development problems; or

(3) develop approaches which promote economic diversification for rural areas or areas whose economy is dependent upon a single industry or single employer.

(20 U.S.C. 1136b) Enacted, Oct. 16, 1968, P.L. 90-575, sec. 281, 82 Stat. 1049; amended June 23, 1972, P.L. 92-318, sec. 191, 86 Stat. 323; amended October 12, 1976, P.L. 94-482, sec. 172, 90 Stat. 2164; amended October 3, 1980, P.L. 96-374, sec. 1101, 94 Stat. 1492; amended October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1569.

Part B—Urban Community Service

PURPOSE

Sec. 1111. It is the purpose of this part to encourage the use of urban universities as sources of skills, talents, and knowledge which can serve the urban areas in which they are located in meeting urban problems.

(20 U.S.C. 1137) Enacted October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1570.

USE OF URBAN COMMUNITY SERVICE FUNDS

Sec. 1112. (a) Allowable Activities.—An eligible institution that is an urban university, or consortium of such institutions, may apply for assistance under this part to support cooperative projects through which such universities provide urban areas with applied research, planning services, specialized training, technical assistance or other services to address high priority needs of such urban areas.

(b) Priority Needs.—Each eligible urban university shall establish high priority needs through consultation with local government, business, labor, or community-based organizations.

(20 U.S.C. 1137a) Enacted October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1570.

CONTENTS FOR APPLICATIONS FOR URBAN COMMUNITY SERVICES PROJECTS

Sec. 1113. (a) Evaluation and Selection of Applications.—An application submitted under this part shall—

(1) contain assurances that the chief executive officer of the local government has been given a reasonable opportunity to review and comment on the proposed project or projects; and

(2) show participation of any local agency of general government and of the community in the development and implementation of each project for which assistance is sought.

(b) Selection Priorities.—The Secretary shall give priority to applications which contain cooperative arrangements among urban universities, community colleges, and other institutions of higher education and other entities in the public, private, and nonprofit sectors within an urban area.

(20 U.S.C. 1137b) Enacted October 17, 1986, P.L. 99–498, sec. 1101, 100 Stat. 1570.

PART C—GENERAL PROVISIONS

ADMINISTRATIVE PROVISIONS

SEC. 1121. (a) PEER REVIEW.—The Secretary shall designate a peer review panel to review applications submitted under parts A and B of this title and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with other appropriate Cabinet-level officials and non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of an equal number of representatives from public and private higher education, labor, business, and State and local government who have expertise in economic development and urban community service.

(b) DURATION OF GRANTS.—Subject to the availability of appropriations, grants under parts A and B may be made on a multiyear basis, except that no institution, individually or as a participant in a combination of such institutions may receive a grant for one project for more than 5 years.

(c) GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under parts A and B in such a manner as to achieve broad and equitable distribution of assistance throughout the Nation.

(d) NON-FEDERAL MATCH REQUIRED.—An applicant under parts A and B and the organizations associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-fourth the amount of the grant, which contribution may be in cash or in services, supplies, or equipment.

(e) WAIVER OF MATCHING REQUIREMENT.—The Secretary may waive the requirement of subsection (d) with respect to an eligible institution that demonstrates a unique hardship that precludes its compliance with that requirement.

(20 U.S.C. 1138) Enacted October 17, 1986, P.L. 99–498, sec. 1101, 100 Stat. 1571.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1122. There are authorized to be appropriated to carry out parts A and B of this title $15,000,000 for fiscal year 1987 and such sums as may be necessary for each of the 4 succeeding fiscal years. The Secretary shall allocate 66⅔ percent of the funds appropriated under this title for part A and 33⅓ percent for part B.

(20 U.S.C. 1138a) Enacted October 17, 1986, P.L. 99–498, sec. 1101, 100 Stat. 1571.

DEFINITIONS

SEC. 1123. As used in this title—

(1) the term "eligible institution" has the meaning given such term by section 435(a) of this Act;

(2) the term "urban area" means a metropolitan statistical area having a population of not less than 500,000 individuals; or in any State which does not have a standard metropolitan statistical area which has such a population, the entity of the State having an agreement under section 1203 may, or if no

such entity has an agreement, the Secretary shall designate one urban area for the purpose of this part; and

(3) the term "urban university" means an institution of higher education or a consortium of institutions of higher education, any one of which meets all the requirements of this paragraph which—

(A) is located in an urban area,

(B) draws a substantial portion of its undergraduate students from the urban area in which it is located or contiguous students from the urban area in which it is located or contiguous areas,

(C) carries out programs to make postsecondary education opportunities more accessible to residents of such urban area or contiguous areas,

(D) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas,

(E) offers a range of professional or graduate programs sufficient to sustain its capacity to provide such resources, and

(F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people.

(20 U.S.C. 1138b) Enacted October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1571.

PART D—WAGNER INSTITUTE OF URBAN PUBLIC POLICY

PURPOSE; DESIGNATION

SEC. 1131. It is the purpose of this part to provide assistance to the City University of New York to enable the University to establish a center to coordinate resources for the development of solutions to pressing urban and social problems. The institute shall be known as the "Robert F. Wagner, Sr., Institute of Urban Public Policy" (hereafter in this part referred to as the "Institute").

(20 U.S.C. 1139) Enacted October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1572.

APPLICATION FOR AND USE OF FUNDS

SEC. 1132. (a) APPLICATION.—No payment may be made under this part except upon application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

(b) USE OF FUNDS.—Payments made under this part may be used by the City University of New York to establish and operate the Institute and to support the following activities of the Institute:

(1) The Institute shall inventory and assess academic research, education, and training capabilities with respect to urban redevelopment strategies. The Institute shall ensure that information derived from this activity shall be available for use in public policy debates on solutions to urban problems.

(2) The Institute shall conduct a series of forums to promote and coordinate decisionmaking on urban problems. Such forums shall be focused upon such issues as economic development, youth employment, law enforcement, education, services

to the elderly, health care delivery systems, and immigration patterns. Participants in such forums shall be drawn from Federal, State, and local government, the business and professional community, labor, education, and community based organizations.

(3) In developing topics for the forums to be conducted under paragraph (2), and in establishing priorities for the allocation of its resources, the Institute shall establish and regularly consult with an advisory council of urban advisors representing leaders in government, business, labor, education, and community based operations.

(4) The Institute shall prepare and publish reports on the forums conducted pursuant to paragraph (2) and publish and disseminate the results of its research activities.

(20 U.S.C. 1139a) Enacted October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1572.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1133. There are authorized to be appropriated to carry out this part, $2,000,000, which may remain available until expended.

(20 U.S.C. 1139b) Enacted October 17, 1986, P.L. 99-498, sec. 1101, 100 Stat. 1573.

TITLE XII—GENERAL PROVISIONS

DEFINITIONS

SEC. 1201. As used in this Act—

(a) The term "institution of higher education" [1] means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, (A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who meet the requirements of section 484(d) of this Act.[2] For purposes of this subsection, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered.

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[1] Section 410 of title IV of P.L. 94-482 (Enacted October 12, 1976), 90 Stat. 2233, 2234 adds the following amendment to the Act of November 2, 1921 (25 U.S.C. 13): "Notwithstanding any other provision of this Act or any other law, postsecondary schools administered by the Secretary of the Interior for Indians, and which meet the definition of an 'institution of higher education' under section 1201 of the Higher Education Act of 1965, shall be eligible to participate in and receive appropriated funds under any program authorized by the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions."

(b) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the government of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.[3]

(c) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(d) The term "secondary school" means a school which provides secondary education as determine under State law except that it does not include any education provided beyond grade 12.

(e) The term "Secretary" means the Secretary of Education.

(g) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary school, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

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[2] This sentence was added by section 181(a) of P.L. 94-482, as amended by section 1(b)(7) of P.L. 95-43. Section 181(b) of P.L. 94-482, as added by section 1(b)(7) of P.L. 95-43, read as follows:

"(b) Neither the amendment made by subsection (a) of this section nor the amendment made to section 435(b)(1) of the Act (by section 127(a) of this Act) shall be construed to authorize terminating the eligibility of an institution which was deemed to be an institution of higher education for purposes of sections 435(b)(1) and 1201(a) on the date of enactment of this Act. The preceding sentence of this section shall not be construed to impair the authority of the Commissioner to limit, suspend, or terminate such eligibility for the reasons and as provided by section 497 of the Act."

[3] State status for Higher Education Act purposes extended to Northern Mariana Islands and Trust Territory of the Pacific Islands by P.L. 95-180, November 15, 1977, 91 Stat. 1372. Section d of P.L. 95-180 prevents the invalidation of "any payments or other benefits provided under the Higher Education Act of 1965" to the Trust Territory of the Pacific Islands or the government of the Northern Mariana Islands prior to November 15, 1977 by any other provision of law.

(i) The term "elementary school" means a school which provides elementary education including education below grade 1, as determined under State law.

(j) The term "combination of institutions of higher education" means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

(k) The term "gifted and talented children" means, in accordance with objective criteria prescribed by the Secretary, children who have outstanding intellectual ability or creative talent.

(l) The term "school or department of divinity" means an institution or a department or a branch of an institution the program of instruction of which is designed for the education of students (A) to prepare them to become ministers of religion or to enter upon some other religious vocation (or to provide continuing training for any such vocation), or (B) to prepare them to teach theological subjects.

(m) The term "Department" means the Department of Education.

(20 U.S.C. 1141) Enacted Nov. 8, 1965, P.L. 89-329, sec. 801, 78 Stat. 1269; amended Oct. 16, 1968, P.L. 90-575, secs. 251, 293, and 294, 82 Stat. 1042 and 1050-51; amended April 13, 1970, P.L. 91-230, sec. 806(b), 84 Stat. 192; subsection (l) added June 23, 1972, P.L. 92-318, sec. 131(d)(1), 86 Stat. 260; amended October 12, 1976, P.L. 94-482, sec. 181, 90 Stat. 2167; amended October 3, 1980, P.L. 96-374, sec. 1391, 94 Stat. 1503; amended June 3, 1987, P.L. 100-50, sec. 21(a), 101 Stat. 360.

ANTIDISCRIMINATION

SEC. 1202. Institutions of higher education receiving Federal financial assistance may not use such financial assistance whether directly or indirectly to undertake any study or project or fulfill the terms of any contract containing an express or implied provision that any person or persons of a particular race, religion, sex, or national origin be barred from performing such study, project, or contract, except no institution shall be barred from performing such study, project, or contract, except no institution shall be barred from conducting objective studies or projects concerning the nature, effects, or prevention of discrimination, or have its curriculum restricted on the subject of discrimination, against any such person.

(20 U.S.C. 1145b) Enacted October 12, 1976, P.L. 94-482, sec. 182, 90 Stat. 2167; redesignated October 3, 1980, P.L. 96-374, sec. 2101, 94 Stat. 1493.

FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS

SEC. 1203. (a) Any State which desires to receive assistance under an applicable program, as described in subsection (f), shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth in the applicable programs.

(b) Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

(1) the State will provide for such methods of administration as are necessary for the proper and efficient administration of any program in keeping with the purposes of the applicable programs described in subsection (f);

(2) the State will provide such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under any title of this Act;

(3) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants or contracts under any such applicable program; and

(4) the State has a comprehensive planning or policy formulation process which—

(A) considers the relation between State administration of any such applicable program, and administration of similar State programs or processes;

(B) encourages State policies designed to consider effects on declining enrollments on all sectors of postsecondary education in the State;

(C) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

(D) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

(E) provides for direct, equitable and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public in the State.

Participation under subclause (E) shall, consistent with State law, be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

(c) The information and assurances provided by a State in accordance with paragraphs (1), (2), and (3) of subsection (b), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any applicable program described in subsection (f).

(d)(1) An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

(2) Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in paragraph (1), (2), or (3) of subsection (b), the Secretary shall notify the State that it is no longer eligible to participate in any applicable program described in subsection (f) until the Secretary is satisfied that there is no longer any such failure to comply.

(e)(1) For the purpose of this section, the selection of the State entity or entities authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

(2)(A) Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in an applicable program as defined in subsection (f), a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

(B) Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs which is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.

(f) For the purposes of this section an "applicable program" is defined as—

(1) title I;
(2) subpart 3 of part A of title IV; and
(3) part A of title VII.

(20 U.S.C. 1143) Enacted October 3, 1980, P.L. 96-374, sec. 1201, 94 Stat. 1493.

TREATMENT OF TERRITORIES AND TERRITORIAL STUDENT ASSISTANCE

SEC. 1204. (a) The Secretary is required to waive the eligibility criteria of any postsecondary education program administered by the Department where such criteria does not take into account the unique circumstances in Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific Islands, and the Northern Mariana Islands. Priority shall be given to proposals submitted by these territories which otherwise meet program criteria.

(b) Within 6 months after the date of enactment of the Higher Education Amendments of 1986, the Secretary shall promulgate regulations in accordance with the recommendations in the report entitled "Postsecondary Education in the U.S. Territories" (May 1982) in order to adapt programs under this Act to the needs of Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands. Such program modifications may include the consolidation of grants for any single program on a regional or interterritorial basis. Such program modifications shall be established in cooperation with the governments of such territories and shall be governed by a memorandum of understanding between such governments and the Department of Education.

(c) Pending legislative implementation of the recommendations submitted by the Secretary under subsection (b), there are authorized to be appropriated $2,000,000 for each fiscal year ending prior to October 1, 1991 to support the cost of providing postsecondary education programs on Guam for nonresident students from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Such sums shall be allocated by the Secretary among the educational institutions on Guam providing such programs on the basis of the number of students enrolled from the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and American Samoa. Sums authorized under this subsection shall remain available until appropriated and sums appropriated under this subsection shall remain available until expended.

(20 U.S.C. 1144a) Enacted October 3, 1980, P.L. 96–374, sec. 1201, 94 Stat. 1495; amended October 17, 1986, P.L. 99–498, sec. 1201, 100 Stat. 1573.

NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

SEC. 1205. (a) There is established in the Department of Education a National Advisory Committee on Accreditation and Institutional Eligibility which shall be composed of 15 members appointed by the Secretary from among individuals knowledgeable concerning education, and including persons who are (1) representative of institutions, (2) representative of students and youth, (3) representative of professional associations, (4) representative of State educational agencies, and (5) representative of the general public. The Chairman of the Committee shall be appointed by the Secretary.

(b) The term of office of each member of the Committee shall be three years, except that—

(1) the members first appointed to the Committee shall serve as designated by the Secretary, five for a term of one year, five for a term of two years, and five for a term of three years, and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(c) The Committee shall, with respect to all matters pertaining to institutional eligibility—

(1) advise the Secretary with regard to the responsibility to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered, including advising the Secretary with respect to the criteria and procedures for carrying out such responsibility;

(2) advise the Secretary with regard to the responsibility to designate State agencies as reliable authorities on the quality of public postsecondary vocational education or training;

(3) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs; and

(4) carry out such other advisory functions relating to accreditation and institutional eligibility as may be assigned by the Secretary.

(d) The Committee shall meet not less than twice each year at the call of the Chairman. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

(e) The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain a list of the members of the Committee and their addresses, a list of the Committee's functions, a list of dates and places of each meeting during the preceding fiscal year, and a summary of the activities, findings, and recommendations made by the Committee during the preceding fiscal year.

(f) Subject to section 448(b) of the General Education Provisions Act, the Committee shall continue to exist until September 30, 1991.

(20 U.S.C. 1145) Enacted October 3, 1980, P.L. 96-374, sec. 1201, 94 Stat. 1495; amended October 17, 1986, P.L. 99-498, sec. 1202, 100 Stat. 1573.

COMMISSION TO STUDY POSTSECONDARY INSTITUTIONAL AND PROGRAMMATIC RECOGNITION PROCESS

SEC. 1206. (a) There is established in the legislative branch a Joint Study Commission on Postsecondary Institutional Recognition (hereafter in this section referred to as the "Commission").

(b) The Commission shall be composed of 5 members appointed jointly by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader, and by the Speaker of the House of Representatives, upon the recommendation of the Majority Leader and the Minority Leader.

(c)(1) Members of the Commission shall be appointed, on the basis of their integrity, impartiality, and good judgment, from among individuals who, as a result of their training, experience, and attainment, are widely recognized by professionals in the fields of education and governmental administration as experts in those fields.

(2) A majority of the members of the Commission may not, at the time of their appointment, be serving as either employees or officers of any accrediting agency or an organization of accrediting agencies, currently serving as administrators of accredited institutions, or be current or past members of the Advisory Committee on Accreditation and Institutional Eligibility of the Department.

(3) Vacancies in the membership of the Commission shall not affect the power of the remaining members to perform the duties of the Commission and shall be filled in the same manner in which the original appointment was made.

(4) Each member of the Commission not otherwise employed by the United States Government shall receive the daily equivalent of the annual basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which such member is actually engaged in the performance of the duties of the Commission. Each member of the Commission shall be allowed travel expenses in the same manner as any individual employed intermittently by the Federal Government is allowed travel expenses under section 5703 of title 5, United States Code.

(d)(1) The Commission shall conduct a thorough study of the institutional and programmatic recognition process used by the Department in determining institutional or programmatic eligibility for student participation in Federal student assistance programs under this Act with attention being given to the accreditation of various types of public and private postsecondary institutions and programs.

(2) The study shall address, analyze, and report specifically on—

(A) the comprehensiveness of the standards and criteria used by existing accreditation agencies;

(B) the reliability and validity of the institutional and programmatic review processes used by the existing accreditation agencies;

(C) the adequacy of the current accreditation methodology and system;

(D) alternative structures, standards, criteria, and processes that might be used in accrediting institutions and programs;

(E) the indicators of educational quality that might be incorporated into the accreditation process;

(F) the educational outcome measurements that might be used in the accreditation process;

(G) the indicators of institutional and programmatic quality that should be provided to applicants and students; and

(H) alternative approaches that might be used by the Secretary for institutional and programmatic recognition to permit student participation in Federal student assistance programs,

as each factor bears on eligibility for participation in Federal student assistance programs.

(3) The study shall also include an analysis of—

(A) the processes and procedures currently utilized by the Secretary and the Department in determining institutional and program eligibility for receiving Federal student assistance funds;

(B) the operations and effectiveness in carrying out eligibility determination of the division of the Department referred to as the "Division of Eligibility and Agency Evaluation";

(C) review of alternatives to accreditation in determining eligibility and their acceptability;

(D) the role and effectiveness of, participation agreements, between institutions and programs and the Department in determining specific institutional program eligibility for Federal funds;

(E) the ability of the Department to enforce conditions specified in participation agreements, including institutional and program audits;

(F) the current status, functioning, and effectiveness of the National Advisory Committee on Accreditation and Institutional Eligibility, including its role in developing criteria for recognition of accrediting agencies and evaluating their success in assessing the quality of the education or training offered.

(e) The Commission shall adopt procedures allowing any interested party to submit information with respect to the recognition process, including critiques of current accrediting agency recognition procedures, accreditation procedures, possible alternative procedures, and proposed changes in criteria for recognition of individual accrediting agencies.

(f) The Commission shall prepare a narrative and statistical report consisting of—

(1) an overview description of the voluntary accrediting process used for postsecondary education in the United States; and

(2) a brief description of each accrediting agency recognized by the Department.

The report shall include at least a statement of the agency's purpose and a description of the organizational and governance structure of the agency, the agency's accreditation and visitation procedures, employers of members of the accrediting agency's governing body, the agency's sources of financial support, and such background information as the Commission may request from the agency regarding the number of members, number of candidates for accreditation, number of members voluntarily withdrawn after membership, number of applications withdrawn before membership, number of members dropped, and number of applicants denied accreditation. The report shall include the types of information shared among the various accrediting agencies, the degree of duplication among accrediting agencies in the current system, and an analysis of reported complaints by the agency and its member institutions and programs.

(g) The Commission shall also prepare a report on—

(1) the history, operation, procedures, and the role and adequacy of staff of the division described in subsection (e)(3)(B);

(2) the history and current operations of the National Advisory Committee on Accreditation and Institutional Eligibility, including current criteria for Federal recognition of accrediting bodies, how the criteria were developed, possible modifications, and procedures for accomplishing this; and

(3) with respect to the Department in general, an overview of its role in the institutional and programmatic recognition process as it relates to eligibility for Federal student assistance, including recommendations, if appropriate, on how this role might be changed and improved.

(h)(1)(A) By agreement between the President pro tempore of the Senate and the Speaker of the House of Representatives, the Commission is authorized to secure on a reimbursable basis, office space, clerical personnel, travel expenses, and such supplies and equipment as may be necessary for the Commission to carry out the study.

(B) Subject to such limitations as the President pro tempore of the Senate and the Speaker of the House of Representatives may jointly prescribe, the Commission may appoint such personnel as the Commission deems necessary and fix the compensation at an annual rate that does not exceed the rate of basic pay then payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and may procure by contract the temporary and intermittent services of clerical personnel and experts or consultants, or organizations thereof.

(2) In conducting the study authorized by this section, the Commission is authorized to—

(A) seek such assistance and support as may be required to conduct the study from appropriate Federal agencies;

(B) arrange for the detail of staff personnel from other Federal agencies;

(C) enter into contracts and make other arrangements, as may be necessary for the conduct of the study;

(D) convene such technical groups as deemed necessary to secure information about the existing recognition process; and

(E) provide transportation and subsistence for persons serving without compensation.

(3) Upon request by the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist in the conduct of the study.

(i) The Commission shall submit a report of the findings and recommendations of the study required by this section to the Postsecondary Education Subcommittee of the Education and Labor Committee of the House of Representatives and the Subcommittee on Education, Arts, and Humanities of the Labor and Human Resources Committee of the Senate not later than one year after funds are appropriated and made available for this study.

(j) There are authorized to be appropriated $1,000,000 to carry out the study authorized by this section.

(20 U.S.C. 1145a) Enacted October 17, 1986, P.L. 99-498, sec. 1203, 100 Stat. 1574.

STUDENT REPRESENTATION

Sec. 1207. The Secretary shall, in appointing individuals to any commission, committee, board, panel, or other body in connection with the administration of this Act, include individuals who are, at the time of appointment, attending an institution of higher education.

(20 U.S.C. 1145bb) Enacted October 17, 1986, P.L. 99-498, sec. 1204, 100 Stat. 1576.

FINANCIAL RESPONSIBILITY OF FOREIGN STUDENTS

Sec. 1208.[1] Nothing in this Act or any other Federal law shall be construed to prohibit any institution of higher education from requiring a student who is a foreign national (and not admitted to permanent residence in the United States) to guarantee the future payment of tuition and fees to such institution by (1) making advance payment of such tuition and fees, (2) making deposits in an escrow account administered by such institution for such payments, or (3) obtaining a bond or other insurance that such payments will be made.

(20 U.S.C. 1145c) Enacted October 17, 1986, P.L. 99-498, sec. 1205, 100 Stat. 1577.

DISCLOSURES OF FOREIGN GIFTS

Sec. 1209. (a) Whenever any institution receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

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[1] Section 1208 is repealed on August 1, 1989.

(b) Each report to the Secretary required by this Act shall contain:

(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

(c) Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose:

(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

(d)(1) If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

(2) If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the executive branch requires a report containing requirements substantially similar to those required under this Act, a copy of this report may be filed with the Secretary in lieu of a report required under subsection (a).

(e) All disclosure reports required by this Act shall be public records open to inspection and copying during business hours.

(f)(1) Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of the Act.

(2) For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

(g) The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this section.

(h) For the purpose of this section—

(1) the term "contract" means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

(2) the term "foreign source" means—

(A) a foreign government, including an agency of a foreign government;

(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

(3) the term "gift" means any gift of money or property;

(4) the term "institution" means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State which—

(A) is legally authorized within such State to provide a program of education beyond high school;

(B) provides a program for which it awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of its subunits; and

(5) the term "restricted or conditional gift or contract" means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding (A) the employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

(20 U.S.C. 1145d) Enacted October 17, 1986, P.L. 99-498, sec. 1206, 100 Stat. 1577.

APPLICATION OF PEER REVIEW PROCESS

Sec. 1210. All applications submitted under the provisions of this Act which require peer review shall be read by a panel of readers composed of individuals selected by the Secretary which shall include outside readers who are not employees of the Federal Government. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to that application which might impair the impartiality with which that individual conducts the review under this section.

(20 U.S.C.) Enacted June 3, 1987, P.L. 100-50, sec. 21(b), 101 Stat. 360.

AGGREGATE LIMIT OF AUTHORIZATION OF APPROPRIATIONS

SEC. 1211. Notwithstanding any other provision of this Act, the total amount which may be appropriated to carry out the programs and activities authorized by this Act, other than the programs and activities authorized by subpart 1 of part A and part B of title IV, shall not exceed—

(1) $3,166,000,000 for fiscal year 1987,
(2) $3,351,000,000 for fiscal year 1988,
(3) $3,552,000,000 for fiscal year 1989,
(4) $3,771,000,000 for fiscal year 1990, and
(5) $4,007,000,000 for fiscal year 1991.

(20 U.S.C. 1145e) Enacted October 17, 1986, P.L. 99-498, sec. 1207, 100 Stat. 1579; amended June 3, 1987, P.L. 100-50, sec. 21(b), 101 Stat. 360.

Higher Education Amendments of 1968

(P.L. 90-575)

AN ACT To amend the Higher Education Act of 1965, the National Defense Education Act of 1958, the National Vocational Student Loan Insurance Act of 1965, the Higher Education Facilities Act of 1963, and related Acts.

* * * * * * *

FINANCIAL AID TO STUDENTS NOT TO BE TREATED AS INCOME OR RESOURCES UNDER CERTAIN PROGRAMS

SEC. 507. For the purpose of any program assisted under title I, IV, X, XIV, XVI, or XIX of the Social Security Act, no grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the Commissioner of Education shall be considered to be income or resources.

(20 U.S.C. 1091, note) Enacted Oct. 16, 1968, P.L. 90-575, Title V, sec. 507, 82 Stat. 1063.

Education Amendments of 1972

(P.L. 92–318)

* * * * * * *

LAND-GRANT STATUS FOR THE COLLEGE OF THE VIRGIN ISLANDS AND THE UNIVERSITY OF GUAM

SEC. 506. (a) The College of the Virgin Islands, the Community College of American Samoa, the College of Micronesia, the Northern Marianas College, and the University of Guam shall be considered land-grant colleges established for the benefit of agriculture and mechanic arts in accordance with the provisions of the Act of July 2, 1862, as amended (12 Stat. 503; 7 U.S.C. 301–305, 307, 308).

(b) In lieu of extending to the Virgin Islands, Guam, American Samoa, and Micronesia those provisions of the Act of July 2, 1862, as amended, relating to donations of public land or land scrip for the endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts, there is authorized to be appropriated $3,000,000 to the Virgin Islands and $3,000,000 to Guam and an equal amount to American Samoa and to Micronesia. Amounts appropriated pursuant to this section shall be held and considered to have been granted to the Virgin Islands, Guam, American Samoa, and Micronesia subject to the provisions of that Act applicable to the proceeds from the sale of land or land scrip.

Enacted June 23, 1972, P.L. 92–318, sec. 506, 86 Stat. 350; amended Oct. 3, 1980, P.L. 96–374, sec. 1361(a), 94 Stat. 1501; amended Aug. 27, 1986, P.L. 99–396, sec. 9(a), 100 Stat. 840.

Education Amendments of 1980

* * * * * * *

TITLE XIII—MISCELLANEOUS PROVISIONS

* * * * * * *

PART G—NEW LAND GRANT COLLEGES

AMERICAN SAMOA AND MICRONESIA LAND GRANT COLLEGES

SEC. 1361. (a)[1] * * *

(b)[2] * * *

(c) Any provision of any Act of Congress relating to the operation of or provision of assistance to a land grant college in the Virgin Islands or Guam shall apply to the land grant college in American Samoa and in Micronesia in the same manner and to the same extent.

(d) Nothing in this section shall be construed to interfere with or affect any of the provisions of the April 17, 1900 Treaty of Cession of Tutuila and Aunu'u Islands, or the July 16, 1904 Treaty of Cession of the Manu'a Islands as ratified by the Act of February 20, 1929 (45 Stat. 1253) and the Act of May 22, 1929 (46 Stat. 4).

(7 U.S.C. 301, note) Enacted October 3, 1980, P.L. 96-374, sec. 1361, 94 Stat. 1502.

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PART I—TECHNICAL PROVISIONS

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CONTRACT AUTHORITY

SEC. 1392. The authorization to enter into contracts or other obligations under the Act, as amended by this Act, shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(20 U.S.C. 1146) Enacted October 3, 1980, P.L. 96-374, sec. 1392, 94 Stat. 1504.

EFFECTIVE DATES

SEC. 1393. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1980.

(b)(1) The amendment made by section 301 of this Act to title III of the Act shall take effect October 1, 1981.

(2) The amendment made by section 404(c)(4) of this Act to section 415C(b)(4) of the Act shall be effective October 1, 1979.

(3) The amendment made by section 405 to subpart 4 of part A of title IV of the Act shall take effect October 1, 1981.

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[1] Subsection (a) of section 1361 of the Education Amendments of 1980 amended section 506 of the Education Amendments of 1972.

[2] Subsection (b) of section 1361 of the Education Amendments of 1980 amended section 5 of the Second Morrill Act.

(4) The amendments made by part B of title IV of this Act shall take effect, except as otherwise provided therein, on January 1, 1981, and to the extent such amendments make changes in such part B which affect student loans, such changes shall apply to outstanding loans as well as to loans made after the amendments take effect, except that the amendments made by section 415(b) shall apply with respect to any loan to cover the cost of instruction for any period of instruction beginning on or after January 1, 1981, to any student borrower who has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 on the date on which the borrower enters into the note or other written evidence of the loan.

(5) The amendments made by part D of title IV of this Act shall apply to loans made under part E of the Act on or after October 1, 1980.

(6) The amendment made by section 701 of this Act adding section 731 of the Act shall apply to loans made under section 731 on or after October 1, 1980.

(20 U.S.C. 1001, note) Enacted October 3, 1980, P.L. 96-374, sec. 1393, 94 Stat. 1504.

TITLE IV—STUDENT ASSISTANCE

SEC. 401. STUDENTS GRANTS REAUTHORIZED.

(a) Amendment.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) Effective Dates.—(1) Except as provided in paragraph (2), sections 411A through 411F of the Act as amended by this section shall apply with respect to the determination of need for Pell Grants for academic years beginning with academic year 1988-1989. With respect to any preceding academic year, such determinations shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982.

(2) The definition of independent student contained in section 411F(12) of the Act as amended by this section shall apply with respect to the determination of such need for academic years beginning with academic year 1987-1988.

(3) Section 411(c) of the Act as amended by this section shall apply only to individuals who receive a Pell Grant for the first time for a period of enrollment beginning on or after July 1, 1987.

(4) Section 411(f) of the Act as amended by this section shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1987.

(5) Section 413C(c)(2) of the Act as amended by this section shall apply to the awarding of grants under subpart 2 of part A of title IV of the Act for periods of enrollment beginning on or after July 1, 1987.

(6) The changes made in section 413D of the Act shall apply with respect to the allocation of funds for the academic year 1988-1989 and succeeding academic years.

(7) The changes made in section 417D of the Act shall apply with respect to grants awarded under such section in fiscal year 1988 or any succeeding fiscal year.

SEC. 402. EXTENSION OF GUARANTEED STUDENT LOAN PROGRAM.

(a) Amendment.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) Effective Dates.—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall take effect on the date of enactment of this Act, except—

(1) as otherwise provided in such part B;

(2) the changes in sections 427(a)(2)(C) and 428(b)(1)(M) of the Act (other than clauses (viii), (ix), and (x) of each such section) shall apply only to loans to new borrowers that (A) are made to cover the cost of instruction for periods of enrollment beginning on or after July 1, 1987; or (B) are disbursed on or after July 1, 1987;

(3) the changes made in sections 425(a), 428(b)(1)(A), and 428(b)(1)(B) of the Act shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

(4) the changes made in subsections (a), (b), and (d) of section 433 of the Act shall apply with respect only to loans disbursed on or after January 1, 1987, or made to cover the costs of instruction for periods of enrollment beginning on or after January 1, 1987;

(5) the changes in section 428(b)(1)(H) shall apply with respect only to loans for which the borrower files an application on or after July 1, 1987;

(6) the changes in sections 435(d)(5) and 438(d) of the Act shall take effect 30 days after the date of enactment of this Act; and

(7) the changes made in section 438(b) shall take effect with respect to loans disbursed on or after 30 days after the date of enactment of this Act or made to cover the costs of instruction for periods of enrollment beginning on or after 30 days after the date of enactment of this Act.

(c) Changes Effective Without Regard to Regulations; Republication of Regulations.—The changes made in part B of title IV of the Act by the amendment made by subsection (a) of this section shall be effective in accordance with subsection (b) of this section without regard to whether such changes are reflected in the regulations prescribed by the Secretary of Education for the purpose of such part.

(d) New Borrowers.—For the purpose of this section, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act.

SEC. 403. WORK STUDY REAUTHORIZED.

(a) Amendment.—Part C of title IV of the Act is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) Effective Dates.—(1) Section 442 of the Act shall apply with respect to the allocation of funds for academic year 1988–1989 and succeeding academic years.

(2) Sections 443(c), 446, and 447 of the Act as amended by this section shall apply to periods of enrollment beginning on or after July 1, 1987.

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SEC. 405. AMENDMENT TO PART E OF THE ACT.

(a) Amendment.—Part E of title IV of the Act is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) EFFECTIVE DATES.—(1) Section 462 of the Act shall apply with respect to academic year 1988-1989 and succeeding academic years.

(2) The changes made in sections 464(c)(1)(A), 464(c)(2), and 465(a)(2)(E) of the Act shall apply only to loans made to cover the costs of instruction for periods of enrollment beginning on or after July 1, 1987, to individuals who are new borrowers on that date.

(3) Section 463(a)(9) and section 463A of the Act as amended by this section shall apply only to loans made for periods of enrollment beginning on or after July 1, 1987.

(4) For the purpose of this subsection, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act.

SEC. 406. ADDITION OF A NEW PART F RELATING TO NEED ANALYSIS FOR STUDENT ASSISTANCE.

(a) AMENDMENT.—Title IV of the Act is further amended by redesignating part F as part G and by inserting after part E the following new part:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) EFFECTIVE DATES FOR NEED ANALYSIS PROVISIONS.—(1) Except as provided in paragraphs (2) through (4)—

(A) part F of title IV of the Act shall apply with respect to determinations of need under such title for academic years beginning with academic year 1988-1989 and succeeding academic years; and

(B) for any preceding academic year, determinations of need shall be made in accordance with regulations prescribed by the Secretary of Education in accordance with the Student Financial Assistance Technical Amendments Act of 1982.

(2) With respect to an application filed after the date of enactment of this Act for a loan under part B of such title for any academic year preceding academic year 1988-1989, any determination of expected family contribution shall be made using the system of financial need analysis approved by the Secretary of Education for use under subpart 2 of part A and parts C and E of such title.

(3) For purposes of sections 413D(d)(2)(B), 442(d)(2)(B) and 462(d)(2)(B) for any academic year preceding academic year 1988-1989, the Secretary shall, in lieu of average expected family contribution, use the procedures for sampling expected family contribution within income categories that was employed for academic year 1986-1987, adjusted to reflect changes in data.

(4) Section 479B of the Act (as so added) shall apply with respect to financial assistance provided for any academic year beginning after such date of enactment.

(5) The definition of independent student contained in section 480(d) of the Act as amended by subsection (a) of this section shall apply with respect to the determination of such need for periods of enrollment beginning on or after January 1, 1987 programs operated under part B of title IV of the Act, or for periods of enrollment beginning on or after July 1, 1987, in the case of programs operated under subpart 2 of part A and parts C and E of such title.

SEC. 407. REVISION OF STUDENT ASSISTANCE GENERAL PROVISIONS.

(a) AMENDMENT.—Part G of title IV of the Act (as redesignated by section 406) is amended to read as follows:

* * * * * * *

[Text as amended printed earlier in this volume.]

(b) EFFECTIVE DATES.—(1) Sections 483(e) and 484(d) of the Act as amended by this section shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

(2) The changes made in section 484(a)(1) of the Act shall apply to student assistance awarded for periods of enrollment beginning on or after July 1, 1987.

(3) Section 484(c) of the Act as amended by this section shall apply only to student assistance awarded for periods of enrollment beginning on or after July 1, 1987, to individuals who were not awarded such assistance for any preceding period of enrollment.

(4) Sections 484(f), 485(b), and 487(a)(10) of the Act as amended by this section shall apply only to periods of enrollment beginning on or after July 1, 1987.

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TITLE XIII—EDUCATION ADMINISTRATION

PART A—SECRETARIAL STUDIES AND EVALUATIONS

SEC. 1301. SATISFACTORY PROGRESS.

The Secretary, through the Office of Educational Research and Improvement, shall conduct a survey on the impact, if any, on grades of students of the amendments made by this Act to section 484(c) of the Act. The study required by this subsection shall be conducted over the 5-year period ending September 30, 1991. The Secretary, after the end of each year of the study, shall submit to the Congress a report of the survey required by this subsection, together with such recommendations as the Secretary deems appropriate.

(20 U.S.C. 1091 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1301, 100 Stat. 1579; amended June 3, 1987, P.L. 100-50, sec. 23(1), 101 Stat. 362.

SEC. 1302. NATIONAL ENDOWMENT FOR INTERNATIONAL STUDIES.

(a) STUDY REQUIRED.—The Secretary shall, in consultation with the Director of the United States Information Agency, the Director of the Agency for International Development, the Secretary of State, and the Secretary of Defense, conduct a study on the establishment of a National Endowment for International Studies. The study shall develop a program, a funding plan, and priorities for such an Endowment.

(b) CONDUCT OF STUDY.—In carrying out the study required by this section, the Secretary shall consider—

(1) the extent of the need for international studies programs at all educational levels, not served by title VI of the Act;

(2) the programs at the Agency for International Development, the United States Information Agency, and the Departments of State, Defense, and Education which can be coordi-

nated to increase the scope and number and kinds of participants in international educational programs;

(3) the feasibility of an Endowment for International Studies, by whom it shall be administered, and procedures for receiving corporate and other private contributions for supplemental funding, similar to Treasury fund accounts at other Federal agencies; and

(4) a comprehensive evaluation of the weaknesses and strengths in international education and foreign language training at all levels of education in our Nation and the role of the Endowment to remedy these weaknesses, and encourage expansion of these strengths.

(c) REPORT.—The Secretary shall prepare and submit to the Congress, not later than one year after the date of enactment of this section, a report on the study required by this section, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

(20 U.S.C. 1121 note) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1302, 100 Stat. 1580; amended June 3, 1987, P.L. 100–50, sec. 23(2), 101 Stat. 362.

SEC. 1303. DATA STUDY REQUIRED.

(a) CONDUCT OF STUDIES.—The Secretary, through the Office of Education Research and Improvement, shall conduct the studies required by this section and submit reports thereon to the Congress not later than September 30, 1990. The reports shall contain such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

(b) COST STUDY REQUIRED.—(1) The Secretary shall conduct a study on the escalating cost of higher education. The study required by this section shall—

(A) identify the current cost of obtaining a higher education and determine how that cost has changed in recent years,

(B) determine the specific causes of such changes in cost and the extent to which those causes have contributed to such changes,

(C) forecast the future cost of obtaining a higher education with consideration given to prospective demographic changes in student enrollments,

(D) evaluate the impact of such changes in cost on institutions of higher education, their students, and lower- and middle-income families,

(E) make recommendations on how such changes in cost can be minimized in the future, and

(F) outline State and Federal policy options which may help to minimize such changes in cost in the future.

(2) In conducting such study, the Secretary shall give special consideration to the impact of escalating costs on lower- and middle-income students and families, the impact of escalating costs on female and minority students, the impact of escalating costs on the career choices made by students, and the relationship between escalating costs and the Federal student financial assistance programs.

(3) During the conduct of such study, the Secretary shall consult frequently with the Chairman of the Senate Committee on Labor

and Human Resources and the Chairman of the House Committee on Education and Labor.

(c) STUDENT AID RECIPIENT SURVEY.—(1) The Secretary shall survey student aid recipients on a regular cycle, but not less than once every 3 years—

(A) to identify the population of students receiving Federal student aid;

(B) to determine the income distribution and other socioeconomic characteristics of federally aided students;

(C) to describe the combinations of aid from State, Federal, and private sources received by students from all income groups;

(D) to describe the debt burden of loan recipients and their capacity to repay their education debts; and

(E) to disseminate such information in both published and machine readable form.

(2) The survey shall be representative of full-time and part-time, undergraduate, graduate, and professional and current and former students in all types of institutions, and should be designed and administered in consultation with the Congress and the postsecondary education community.

(d) TEACHER SUPPLY AND DEMAND.—(1) The Secretary shall utilize the legislative authority under section 406(b) of the General Education Provisions Act to annually assess current and future supply and demand for teachers with particular attention to—

(A) long-term and short-term shortages of personnel in various subject areas or teaching specialties;

(B) shortages in particular States or regions;

(C) the number of minorities entering teaching;

(D) the number of women and minorities entering educational administration;

(E) the effect of State curriculum and graduation requirements on the need for teachers in each State;

(F) the extent to which demographic characteristics of persons currently employed as teachers and persons studying to be teachers match the characteristics of the students in each State (race, age, sex);

(G) the academic qualifications of prospective teachers and the academic preparation of persons currently preparing to be teachers;

(H) the effect of the introduction of State mandated teacher competency tests on the demographic and educational characteristics of teachers and the supply of teachers; and

(I) an assessment of new and emerging specialties and the technologies, academic subjects, and occupational areas requiring vocational education, with emphasis on the unique needs for preparing an adequate supply of vocational teachers of handicapped students, with added emphasis on the preparation required to teach combined classrooms of handicapped, or other highly targeted groups of students and other students within a vocational education setting.

(2) The analysis conducted under this subsection may include assessment of other educational needs identified by the Congress, including an assessment of the need for instructional equipment and

materials in elementary and secondary schools and in institutions of higher education.

(e) EQUITABLE STUDENT AID FOR FARM FAMILIES.—The Secretary shall conduct a study of financial aid formulas under title IV of the Act for students in postsecondary educational institutions with special attention to devising a more equitable formula for farm families.

(f) There are authorized to be appropriated $2,700,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of this section.

(20 U.S.C. 1221e-1 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1303, 100 Stat. 1580-1582; amended June 3, 1987, P.L. 100-50, sec. 23(3)(A)-(D), 101 Stat. 362.

SEC. 1304. EVALUATION OF CONTINUING EDUCATION.

(a) EVALUATION.—The Secretary shall enter into a contract with a qualified entity to study and evaluate the programs established under part A of title I of this Act.

(b) SECRETARY'S RESPONSIBILITIES.—The Secretary shall assist in evaluating the status and progress of adult education and postsecondary continuing education in achieving the purposes of this title. Such assistance shall include—

(1) an analysis of the findings of the report under subsection (a) together with suggestions for improvements in planning or program operation; and

(2) the provision of an information network on research in adult and continuing education, the operation of model or innovative programs, successful experiences in the planning, administration, and conduct of adult and continuing education programs, and advances in curriculum and instructional practices and technologies.

(c) REPORT.—Not later than January 1, 1990, the Secretary shall submit a report to the Congress on the program evaluations required under this section and on any progress in fulfilling the goals and purposes of title I of the Act. The Secretary may include in the report appropriate recommendations or legislative proposals.

(20 U.S.C. 1011 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1304, 100 Stat. 1582; amended June 3, 1987, P.L. 100-50, sec. 23(4)(A)-(D), 101 Stat. 362.

SEC. 1305. STUDY OF BANKRUPTCY TREATMENT OF STUDENTS.

The Secretary shall conduct a study of the treatment of students under chapter 13 of title 11, United States Code, relating to the discharge of student loan indebtedness in bankruptcy proceedings, and of the effect of including such students under that provision of that law. The Secretary shall prepare and submit a report to the Congress on the study required by this section not later than 3 months after the date of enactment of this Act.

Enacted Oct. 17, 1986, P.L. 99-498, sec. 1305, 100 Stat. 1582.

SEC. 1306. STUDY OF PELL GRANT LESS THAN HALF-TIME STUDENTS.

The Secretary shall conduct a study to determine the number of less than half-time students who would be eligible for Pell grants by reason of having an expected family contribution of $0 and by reason of having an expected family contribution of $0-$200 for the appropriate academic years. The Secretary shall prepare and submit a report to the Congress not later than September 30, 1988, on the results of the study required by this section.

(20 U.S.C. 1070a note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1306, 100 Stat. 1582.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,000,000 for the fiscal year 1987 and for each of the 2 succeeding fiscal years to carry out the provisions of sections 1301 and 1302.

Enacted Oct. 17, 1986, P.L. 99-498, sec. 1307, 100 Stat. 1583; amended June 3, 1987, P.L. 100-50, sec. 23(5) (A) and (B), 101 Stat. 362.

PART B—GENERAL ACCOUNTING OFFICE REPORTS

SEC. 1311. STUDY OF PRACTICES OF STATE GUARANTY AGENCIES AND MULTISTATE GUARANTORS UNDER THE GUARANTEED STUDENT LOAN PROGRAM.

(a) STUDY REQUIRED.—The Comptroller General shall conduct a complete study of the practices of State guaranty agencies and multistate guarantors under the guaranteed student loan program authorized by part B of title IV of the Act. The study shall investigate, on a comparative basis—

(1) due diligence practice of lenders;

(2) default rates and recovery rates on student loans;

(3) changes in loan volume;

(4) methods of soliciting student borrowers;

(5) potential for fraudulent double borrowing by students;

(6) participation agreements between the types of guarantor and lenders;

(7) eligible institution participation agreements;

(8) adequacy of reserved funds in relation to guaranty commitments made by the agency and the default risk which such commitments represent, as reflected by the socio-economic background of the borrowers, the category of institution attended, and the historical experience of the agency;

(9) types of services provided to lenders, eligible institutions, and borrowers;

(10) use of funds generated through participation in the guaranteed student loan program by amount and nature of expenses for administrative support for programs other than the guaranteed student loan program;

(11) to what extent the guarantors meet the requirements of truth-in-lending provisions;

(12) profile of borrowers and defaulters of loans guaranteed by the agency and an assessment of the default risks inherent in such loans;

(13) coordination of the loan guaranty program with grant programs;

(14) general student access to loan assistance; and

(15) need for administrative cost allowances by particular guaranty agencies in relation to the default risk faced by the agency, the administrative costs incurred, or needed to be incurred by the agency, and other factors relevant to the cost of guaranteeing loans under the program.

(b) REPORT.—The Comptroller General of the United States shall prepare and submit a report, not later than 2 years after the date of enactment of this Act, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and

Labor of the House of Representatives on the findings of the study required by subsection (a) of this section, together with such recommendations as the Comptroller General deems appropriate.

(20 U.S.C. 1071 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1311, 100 Stat. 1583.

SEC. 1312. STUDY OF USE OF MULTIPLE-YEAR LINES OF CREDIT.

The Comptroller General shall evaluate the feasibility and efficiency of permitting students to establish lines of credit with eligible lenders under part B of title IV of the Act that cover more than 2 years of attendance at an institution of higher education. Such evaluation shall determine the extent to which such an arrangement would reduce the administrative costs associated with making separate loans annually under such part. In conducting such evaluation, the Comptroller General shall consult institutions of higher education and eligible lenders under such part. Within 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the results of such evaluation together with such recommendations as the Secretary considers appropriate.

(20 U.S.C. 1071 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1312, 100 Stat. 1584.

SEC. 1313. STUDY OF MULTIPLE DISBURSEMENT.

The Comptroller General shall evaluate the impact of the multiple disbursement system required for student loans under part B of title IV of the Act on the ability of both students and institutions of higher education to meet their expenses as they arise. Such evaluation shall include an assessment of any other impacts of such system on such students or institutions that the Comptroller General determines to be significant. A report on the results of such evaluation shall be submitted to the Congress not later than 2 years after the date of enactment of this Act.

(20 U.S.C. 1071 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1313, 100 Stat. 1584.

SEC. 1314. STUDENT LOAN CONSOLIDATION.

The Comptroller General shall evaluate the cost, efficiency, and impact of the consolidation loan program established by the amendments made by this Act to part B of title IV of the Act and shall report to the Congress not later than 2 years after the date of enactment of this Act on the findings and recommendations required by this subsection. Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors to maintain or report records relating to the loans discharged by borrowers in receiving a consolidation loan pursuant to section 428C of the Act.

(20 U.S.C. 1071 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1314, 100 Stat. 1584; amended June 3, 1987, P.L. 100-50, sec. 23(6), 101 Stat. 362.

PART C—COSTS OF POSTSECONDARY EDUCATION

SEC. 1321. NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION.

(a) FINDINGS.—The Congress finds—

(1) that institutions of higher education in our Nation and their human and intellectual resources are critical to the future of the American society, and the Nation's economic po-

tential, its strength, security, and freedom, and the quality of life for all citizens are tied to the quality and extent of higher education available;

(2) that it is the responsibility of the Federal Government to establish a clearly defined national policy regarding—

(A) the role and expectations of respective institutions in society (the family unit, institutions of higher education, government, and the individual in financing the costs of postsecondary education); and

(B) the most efficient and effective use of limited Federal, State, and private resources for supplementing the family effort in financing postsecondary education and for creating incentives for individuals and families to plan for financing postsecondary education; and

(3) the appropriate response to economic, budgetary, demographic, and social changes which will require individuals, families, institutions of higher education, and government to plan and adapt to the future needs for student financial assistance for postsecondary education.

(b) ESTABLISHMENT OF THE COMMISSION.—(1) There is established as an independent agency in the executive branch a commission to be known as the National Commission on Responsibilities for Financing Postsecondary Education (hereafter in this section referred to as the "Commission").

(2) The Commission shall be composed of 9 members, 3 of whom shall be appointed by the President, 3 of whom shall be appointed by the Speaker of the House of Representatives, and 3 of whom shall be appointed by the majority leader of the Senate. The membership of the Commission shall provide expertise and experience in the provision and financing of postsecondary education, including student financial aid administrators, secondary school administrators, individuals skilled in education economics research, individuals having expertise in the development of standards and systems of need analysis for student assistance programs, and individuals with particular expertise in credit financing for postsecondary education.

(c) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall study and investigate the extent to which—

(A) there is a consistent and coherent Federal policy regarding the appropriate family role in financing the costs of postsecondary education for family members;

(B) the current Federal laws and regulations promote the stated Federal policy; and

(C) the extent to which State laws which remove parental responsibilities for children over 18 years of age conflict with Federal policy in this area.

(2) REPORT AND RECOMMENDATIONS.—The Commission shall—

(A) summarize the appropriate findings of the National Commission on Student Financial Assistance;

(B) recommend to the Congress a comprehensive analysis on the extent to which a consensus exists regarding the appropriate role of the family in financing postsecondary education; and

(C) to the extent that a consensus exists, recommend changes in current law that would be required to achieve the desired Federal policy, including recommendations on Federal incentives to encourage families to plan and save for their financial responsibilities in financing postsecondary education for family members taking into account the needs of future generations.

(d) SPECIFIC REQUIREMENTS.—In carrying out its responsibilities under subsection (c), the Commission shall make a study of the following areas:

(1) NEED ANALYSIS.—

(A) The most appropriate mechanisms for measuring student and family ability to pay for postsecondary education.

(B) The incentives and disincentives for family saving in existing need analysis systems.

(C) The feasibility and impact of different need analysis systems and eligibility formulas for determining student and family contributions for Federal and non-Federal grant, loan, and work-study programs.

(D) The extent to which existing systems of need analysis take into account the circumstances of older and nontraditional students, students with minor dependents, and divorced and separated parents.

(E) The extent to which existing systems of need analysis recognize differing regional economic conditions.

(F) The feasibility of a simplified need analysis system for determining ability to pay for low-income families, economically disadvantaged families, and families receiving public assistance benefits.

(G) The postsecondary education financing partnership, and the impact of external influences, such as economic conditions or State-level initiatives, that affect the balance of financial support among students and their families, the Federal Government, States, postsecondary institutions, credit institutions, and the private sector.

(2) STUDENT INDEPENDENCE.—The most appropriate mechanisms and factors to be considered in determining student independence and self-support and in determining when families should be expected to provide parental financial information in determining expected family contributions for Federal student assistance programs.

(3) PARENTAL RESPONSIBILITY.—In consultation and cooperation with associations of higher education institutions and administrators, secondary schools, student and parent associations, and other organizations, the most effective means of reinforcing and promoting the principle of parental responsibility for contributing, to the extent that they are able, to the costs of their children's postsecondary education.

(4) STUDENT RESPONSIBILITY.—The most effective mechanisms for measuring student ability to contribute to educational cost through earnings and savings, the extent to which such mechanisms reflect the circumstances of students from disadvantaged families, and the existing levels of student contributions from past, current, and future earnings.

(5) INSTITUTIONAL RESPONSIBILITY.—The most effective mechanisms of reinforcing and promoting the principle of institutional responsibility for providing need-based aid to students attending postsecondary institutions.

(6) GOVERNMENTAL RESPONSIBILITY.—The most efficient and appropriate mechanisms for providing student assistance from the various levels of government.

(7) EARLY INFORMATION, PLANNING, AND INFORMATION TECHNOLOGY.—The extent to which programs providing early information on postsecondary education, costs, and financial aid programs to students and their families influence educational opportunity and family saving.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $1,000,000.

(f) TERMINATION.—The Commission shall terminate 2 years after the initial appointment of members.

(20 U.S.C. 1221-1 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1321, 100 Stat. 1584-1586.

PART D—LIBRARY RESOURCES

SEC. 1331. STUDY OF THE EFFECTIVENESS OF THE NEEDS CRITERIA FOR THE COLLEGE LIBRARY RESOURCE PROGRAM AUTHORIZED.

(a) STUDY REQUIRED.—The National Commission on Libraries and Information Sciences shall conduct a study on the effectiveness in directing assistance to libraries with the greatest need of the needs criteria specified in section 211 of the Act.

(b) REPORT TO CONGRESS.—The National Commission on Libraries and Information Sciences shall prepare and submit a report to the Congress not later than 3 years after the conclusion of the first fiscal year in which appropriations are made for the College Library Resource Program authorized by section 211 of the Act, together with such recommendations as the Commission on Libraries and Information Sciences deems appropriate.

(20 U.S.C. 1029 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1331, 100 Stat. 1587.

PART E—NATIONAL ACADEMY OF SCIENCES STUDY

SEC. 1341. VOLUNTEERS.

(a) STUDY REQUIRED.—The National Academy of Sciences shall conduct a thorough study of how volunteers can best be used in the classroom. The study required by this section shall include—

(1) the feasibility of using recipients of student loans made, assured, or guaranteed under part B of title IV of the Act or part E of such title as part of repayment of such loans;

(2) the use of older Americans as such volunteers;

(3) the use of business persons and other professionals as volunteers; and

(4) the place of incentives to encourage volunteerism.

The study required by this section shall examine the methods of using volunteers designed to provide the greatest flexibility for local educational agencies.

(b) REPORT REQUIRED.—Not later than one year after the date of entering into a contract with the Department of Education for the study described in this section, the National Academy of Sciences shall prepare and submit to the Congress a report, together with a description of programs on the use of volunteers and with such recommendations as deemed appropriate.

(c) AVAILABILITY OF FUNDS.—The Secretary shall, from funds available for the administration of the Department of Education, make available not to exceed $500,000 for the study required by this section.

(20 U.S.C. 1221-1 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1341, 100 Stat. 1587; amended June 3, 1987, P.L. 100-50, sec. 23(7), 101 Stat. 362.

PART F—FAULKNER UNIVERSITY

SEC. 1351. RELIEF OF LIABILITY.

(a) RELIEF OF LIABILITY.—Faulkner University (formerly Alabama Christian College) of Montgomery, Alabama, is relieved of all liability—

(1) to repay to the United States the sum of $147,681.39, plus accrued interest, and

(2) to pay $7,822.50 to the National Direct Student Loan Fund of the Faulkner University,

representing payments inadvertently made pursuant to subpart 1 and subpart 2 of part A and part C of title IV of the Higher Education Act of 1965 and direct student loans inadvertently made under part E of such title IV prior to the receipt of eligibility status for the junior and senior years of the baccalaureate degree programs offered by Faulkner University. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this section.

(b) SPECIAL RULE.—For the purpose of part B of title IV of the Higher Education Act of 1965, each student in attendance at the Faulkner University of Montgomery, Alabama, receiving a federally insured loan for the academic year 1981–1982 and for the academic year 1982–1983 pursuant to such part B shall be deemed to be in attendance at an eligible institution for that academic year.

Enacted Oct. 17, 1986, P.L. 99-498, sec. 1351, 100 Stat. 1587–1588.

PART G—ALIEN YOUTH EDUCATION OPPORTUNITY PANEL

SEC. 1361. DENIAL OF STUDENT ASSISTANCE TO CERTAIN NONCITIZENS.

(a) ESTABLISHMENT OF PANEL.—(1) There is established in the Department of Education a panel to be known as the "Alien Youth Education Opportunity Panel" (hereafter in this section referred to as the "Panel").

(2) The Panel shall be composed of 7 members, 3 of whom shall be appointed by the Secretary, 2 of whom shall be appointed by the Speaker of the House of Representatives, and 2 of whom shall be appointed by the Majority Leader of the Senate.

(b) DUTIES OF PANEL.—The Panel shall study and investigate the extent to which the requirements of section 484(a)(5) of the Act result in the denial of student assistance to long-term residents of the United States who have graduated from United States high schools and the extent to which that denial deprives those individuals of an equal educational opportunity.

(c) REPORT AND RECOMMENDATIONS.—The Panel shall submit a report of its findings and recommendations to the Secretary, the President, and the Congress not later than 2 years after the date of enactment of this section.

(d) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Secretary shall provide the Panel with such administrative and clerical support as it may require to carry out its activities under this section.

(e) COMPENSATION AND EXPENSES.—(1) Members of the Panel who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(2) Members of the Panel who are not officers or full-time employees of the United States may each receive reimbursement for travel expenses incident to attending Panel meetings, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(f) ACCESS TO INFORMATION.—The Panel is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this section and each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Panel.

(20 U.S.C. 1091 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1361, 100 Stat. 1588-1589.

PART H—BOSTON COLLEGE

SEC. 1371. DEBT PROVISION.

The Secretary is directed to cancel all annual debt service obligations of the receiving institution for fiscal years 1987, 1988, 1989, and 1990 of which the total amount to be cancelled shall not exceed $2,700,000 adjusted as required in fiscal year 1990, for the Department of Education Project Loan #5-1-00665-0 dated August 5, 1981, and shall adjust the loan agreement to reflect the change required by this section without any other provision of law being applicable.

Enacted Oct. 17, 1986, P.L. 99-498, sec. 1371, 100 Stat. 1589.

PART I—CARL ALBERT CONGRESSIONAL RESEARCH AND STUDIES CENTER

SEC. 1381. APPROPRIATION PROVISION.

Funds appropriated in Public Law 97-377 under the heading "HIGHER AND CONTINUING EDUCATION", for the Carl Albert Congressional Research and Studies Center, under the terms of H.R. 3598

(97th Congress) shall be available as a direct appropriation without regard to section 4(a) of H.R. 3598 (97th Congress).

Enacted Oct. 17, 1986, P.L. 99-498, sec. 1381, 100 Stat. 1589.

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TITLE XV—AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT

SEC. 1501. SHORT TITLE.

This title may be cited as the "American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act".

(20 U.S.C. 4401 note) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1501, 100 Stat. 1600.

SEC. 1502. FINDINGS.

The Congress finds that—

(1) Indian art and culture and Native Hawaiian art and culture have contributed greatly to the artistic and cultural richness of the Nation;

(2) Indian art and culture and Native Hawaiian art and culture occupy a unique position in American history as being our only native art form and cultural heritage;

(3) the enhancement and preservation of this Nation's native art and culture has a fundamental positive influence on the American people;

(4) although the encouragement and support of Indian and Native Hawaiian arts and crafts are primarily a matter for private, local, and Indian and Native Hawaiian initiative, it is also an appropriate matter of concern to the Federal Government;

(5) it is appropriate and necessary for the Federal Government to support research and scholarship in Indian art and culture and Native Hawaiian art and culture and to complement programs for the advancement of such art and culture by tribal, private, and public agencies and organizations;

(6) current Federal initiatives in the area of Indian art and culture and Native Hawaiian art and culture are fragmented and inadequate; and

(7) in order to coordinate the Federal Government's effort to preserve, support, revitalize, and disseminate Indian art and culture and Native Hawaiian art and culture, it is desirable to establish—

(A) a national Institute of American Indian and Alaska Native Culture and Arts Development, and

(B) a program for Native Hawaiian culture and arts development.

(20 U.S.C. 4401) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1502, 100 Stat. 1600.

SEC. 1503. DEFINITIONS.

For the purpose of this title—

(1) The term "Indian art and culture" includes (but is not limited to) the traditional and contemporary expressions of Indian language, history, visual and performing arts, and crafts.

(2) The term "Native Hawaiian art and culture" includes the traditional and contemporary expressions of Native Hawaiian language, history, visual and performing arts, and crafts.

(3) The term "Institute" means the Institute of American Indian and Alaska Native Culture and Arts Development established by this title.

(4) The term "Indian" means any person who is a member of an Indian tribe.

(5) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(6) The term "Native Hawaiian" means any descendent of a person who, prior to 1778, was a native of the Hawaiian Islands.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Board" means the Board of Trustees of the Institute established under this title.

(20 U.S.C. 4402) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1503, 100 Stat. 1600-1601.

PART A—AMERICAN INDIANS AND ALASKA NATIVES

SEC. 1504. ESTABLISHMENT OF INSTITUTE.

(a) IN GENERAL.—There is hereby established a corporation to be known as the "Institute of American Indian and Alaska Native Culture and Arts Development", which shall be under the direction and control of a Board of Trustees established under section 1505.

(b) SUCCESSION AND AMENDMENT OF CHARTER.—The corporation established under subsection (a) shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of such corporation.

(20 U.S.C. 4411) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1504, 100 Stat. 1601.

SEC. 1505. BOARD OF TRUSTEES.

(a) COMPOSITION.—

(1) The Board of Trustees of the Institute shall be composed of 13 voting members and 6 nonvoting members as follows:

(A) The voting members shall be appointed by the President of the United States by and with the advice and consent of the Senate, not later than 180 days after the date of enactment of this Act, from among individuals from private life who are Indians, or other individuals, widely recognized in the field of Indian art and culture and who represent diverse political views.

(B) The nonvoting members shall consist of—

(i) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives;

(ii) 2 Members of the Senate appointed by the President pro tempore of the Senate, upon the recommendation of the Majority Leader and the Minority Leader of the Senate;

(iii) the President of the Institute, ex officio; and

(iv) the president of the student body of the Institute, ex officio.

(2) In making appointments pursuant to paragraph (1)(A), the President of the United States shall—

(A) consult with the Indian tribes and the various organizations of Indians;

(B) publish in the Federal Register an announcement of the expiration of terms no less than 4 months before such expiration;

(C) solicit nominations from Indian tribes and various Indian organizations to fill the vacancies;

(D) give due consideration to the appointment of individuals who will provide appropriate regional and tribal representation on the Board; and

(E) ensure that a majority of the Board appointed under paragraph (1)(A) are Indians.

(3) Members of Congress appointed under this section, or their designees, shall be entitled to attend all meetings of the Board and to provide advice to the Board on any matter relating to the Institute.

(b) Terms of Office.—

(1) Except as otherwise provided in this section, members shall be appointed for terms of office of 6 years.

(2) The terms of office on the Board for the Members of the House of Representatives and of the Senate shall expire at the end of the congressional term of office during which such Member or Senator was appointed to the Board.

(3) Of the members of the Board first appointed under subsection (a)(1)(A)—

(A) 4 shall be appointed for terms of office of 2 years;

(B) 4 shall be appointed for terms of office of 4 years; and

(C) 5 shall be appointed for terms of office of 6 years,

as determined by the drawing of lots during the first meeting of the Board.

(4) No member of the Board appointed under subsection (a)(1)(A) shall be eligible to serve in excess of 2 consecutive terms, but may continue to serve until such member's successor is appointed.

(c) Vacancies.—Any member of the Board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the Board appointed under subsection (a)(1)(B), a replacement shall be appointed in the same manner in which the original appointment was made.

(d) Removal.—No member of the Board may be removed during the term of office of such member except for just and sufficient cause.

(e) Chairman and Vice Chairman.—The President of the United States shall designate the initial Chairman and Vice Chairman of the Board from among the members of the Board appointed pursuant to subsection (a)(1)(A). Such Chairman and Vice Chairman so designated shall serve for 12 calendar months. Thereafter, the Chairman and Vice Chairman shall be elected from among the members of the Board appointed pursuant to subsection (a)(1)(A) and shall serve for terms of 2 years. In the case of a vacancy in the office of Chairman or Vice Chairman, such vacancy shall be filled by the members of the Board appointed pursuant to subsection (a)(1)(A), and the member filling such vacancy shall serve for the remainder of the unexpired term.

(f) QUORUM.—Unless otherwise provided by the bylaws of the Institute, a majority of the members appointed under subsection (a)(1)(A) shall constitute a quorum.

(g) POWERS.—The Board is authorized—

(1) to formulate the policy of the Institute;

(2) to direct the management of the Institute; and

(3) to make such bylaws and rules as it deems necessary for the administration of its functions under this title, including the organization and procedures of the Board.

(h) COMPENSATION.—Members of the Board appointed pursuant to subsection (a)(1)(A) shall, for each day they are engaged in the performance of the duties under this title, receive compensation at the rate of $125 per day, including traveltime. All members of the Board, while so serving away from their homes or regular places of business, shall be allowed travel expenses (including per diem in lieu of subsistence), as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(i) REVIEW BY THE SECRETARY OF THE INTERIOR.—For so long as any employee of the Institute is covered under title 5, United States Code, the Board (acting by majority vote) shall submit final decisions relating to personnel to the Secretary of the Interior. Each such decision shall become final 30 days after the date of its receipt by the Secretary unless the Secretary disapproves of such decision. The Secretary may only disapprove a decision of the Board for just cause.

(20 U.S.C. 4412) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1505, 100 Stat. 1601-1603.

SEC. 1506. EXECUTIVE BOARD.

(a) COMPOSITION.—The Board shall have an Executive Board composed of—

(1) the chairman of the Board;

(2) the vice chairman of the Board;

(3) the secretary of the Board;

(4) the treasurer of the Board; and

(5) an at-large member of the Board elected by the Board at its initial meeting.

(b) VACANCIES.—In the case of any vacancy which occurs in the position of at-large member before the expiration of such member's term, the Board shall elect a replacement to complete that term.

(c) MEETINGS.—The Executive Board shall hold not more than 4 regular meetings per calendar year. Special meetings may be held upon the call of the chairman or 3 members of the Executive Board.

(d) QUORUM.—A majority of the Executive Board shall constitute a quorum.

(e) POWERS.—The Executive Board may hold and use all the powers of the Board, subject to the approval of the Board.

(20 U.S.C. 4413) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1506, 100 Stat. 1603.

SEC. 1507. GENERAL POWERS OF THE BOARD.

In carrying out the provisions of this title, the Board shall have the power, consistent with the provisions of this title—

(1) to adopt, use, and alter a corporate seal;

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31, United States Code;

(3) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction;

(4) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings;

(5) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this title and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense);

(6) to use the United States mails on the same terms and conditions as the executive departments of the United States Government;

(7) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and to accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(8) to solicit, accept, and dispose of gifts, bequests, devises of money, securities, and other properties of whatever character, for the benefit of the Institute;

(9) to receive grants from, and enter into contracts and other arrangements with, Federal, State, or local governments, public and private agencies, organizations, institutions, and individuals;

(10) to acquire, hold, maintain, use, operate, and dispose of such real property, including improvements thereon, personal property, equipment, and other items, as may be necessary to enable the Board to carry out the purpose of this title;

(11) to obtain insurance or make other provisions against losses;

(12) to use any funds or property received by the Institute to carry out the purpose of this title; and

(13) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Institute in order to carry out the provisions of this title and the exercise of the powers, purposes, functions, duties, and authorized activities of the Institute.

(20 U.S.C. 4414) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1507, 100 Stat. 1603-1604.

SEC. 1508. PRESIDENT OF THE INSTITUTE.

(a) APPOINTMENT.—The Institute shall have a President who shall be appointed by the Board. The President of the Institute shall serve as the chief executive officer of the Institute. Subject to the direction of the Board and the general supervision of the Chairman of the Board, the President of the Institute shall have the responsibility for carrying out the policies and functions of the Institute and shall have authority over all personnel and activities of the Institute.

(b) COMPENSATION.—The President of the Institute shall be paid at a rate not to exceed the maximum rate of basic pay payable for grade GS–18 of the General Schedule.

(20 U.S.C. 4415) Enacted Oct. 17, 1986, P.L. 99–498, sec. 1508, 100 Stat. 1604.

SEC. 1509. STAFF OF INSTITUTE.

(a) EXEMPTION FROM CIVIL SERVICE.—Except as otherwise provided in this section, title 5, United States Code, shall not apply to the Institute.

(b) APPOINTMENT AND COMPENSATION.—

(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the President of the Institute deems necessary for the efficient administration of the Institute.

(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5, United States Code, applies.

(3)(A) Not later than 180 days after the President of the Institute is appointed, the President of the Institute shall make policies and procedures governing—

(i) the establishment of positions at the Institute,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation,

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) APPEAL TO BOARD.—Any officer or employee of the Institute may appeal to the Board any determination by the President of the Institute to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President of the Institute with respect to the employment of such officer or employee.

(d) NO REDUCTION IN CLASSIFICATION OR COMPENSATION.—Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.

(e) LEAVE.—

(1) Any individual who—

(A) elects under subsection (g) to be covered under the provisions of this section, or

(B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute,

shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b), with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(2) Upon termination of employment with the Institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or accrued under rules and regulations promulgated pursuant to subsection (b) shall not be so liquidated.

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(f) APPLICABILITY.—This section shall apply to any individual appointed after the date of enactment of this title for employment in the Institute. Except as provided in subsections (d) and (g), the enactment of this title shall not affect—

(1) the continued employment of any individual employed immediately before the date of enactment of this title, or

(2) such individual's right to receive the compensation attached to such position.

(g) TERMINATION OF CIVIL SERVICE POSITIONS.—

(1) At the end of the 2-year period beginning on the date referred to in section 1514(f), any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5, United States Code, may elect to continue to be subject to such subchapter, and any such indi-

vidual who is subject to chapter 84 of such title may elect to continue to be subject to such chapter.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5, United States Code, or chapter 84 of such title shall, so long as continually employed by the Institute without a break in service subject to such subchapter or such chapter 84, as the case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The Institute shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(h) COLLECTIVE BARGAINING.—The Institute shall be considered an agency for the purpose of chapter 71 of title 5, United States Code.

(i) WORKMEN'S COMPENSATION.—Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5, United States Code.

(20 U.S.C. 4416) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1509, 100 Stat. 1604-1606.

SEC. 1510. FUNCTIONS OF THE INSTITUTE.

(a) PRIMARY FUNCTIONS.—The primary functions of the Institute shall be—

(1) to provide scholarly study of, and instruction in, Indian art and culture, and

(2) to establish programs which culminate in the awarding of degrees in the various fields of Indian art and culture.

(b) ESTABLISHMENTS WITHIN INSTITUTE.—There shall be established within the Institute—

(1) a Center for Culture and Art Studies to be administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include (but not be limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature, and Museology; and

(2) a Center for Research and Cultural Exchange, administered by a director (appointed by the President of the Institute, with the approval of the Board), which shall include—

(A) a museum of Indian arts;

(B) a learning resources center;

(C) programs of institutional support and development;

(D) research programs;

(E) fellowship programs;

(F) seminars;

(G) publications;

(H) scholar-in-residence and artist-in-residence programs; and

(I) inter-institutional programs of cooperation at national and international levels.

(c) OTHER PROGRAMS.—In addition to the centers and programs described in subsection (b), the Institute shall develop such programs and centers as the Board determines are necessary to—

(1) foster research and scholarship in Indian art and culture through—

(A) resident programs;

(B) cooperative programs; and

(C) grant programs;

(2) complement existing tribal programs for the advancement of Indian art and culture; and

(3) coordinate efforts to preserve, support, revitalize, and develop evolving forms of Indian art and culture.

(20 U.S.C. 4417) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1510, 100 Stat. 1606-1607.

SEC. 1511. INDIAN PREFERENCE.

(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, the Institute is authorized to extend preference to Indians in—

(1) admissions to, and enrollment in, programs conducted by the Institute,

(2) employment by the Institute, and

(3) contracts, fellowships, and grants awarded by the Institute.

(b) HIRING PREFERENCE.—In carrying out section 1509(b)(1), the President of the Institute shall, to the maximum extent practicable, give preference in hiring to Indians.

(20 U.S.C. 4418) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1511, 100 Stat. 1607.

SEC. 1512. NONPROFIT AND NONPOLITICAL NATURE OF THE INSTITUTE.

(a) STOCK.—The Institute shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) NONPROFIT NATURE.—No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) NONPOLITICAL NATURE.—The Institute may not contribute to, or otherwise support, any political party or candidate for elective public office.

(20 U.S.C. 4419) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1512, 100 Stat. 1607.

SEC. 1513. TAX STATUS.

The Institute and the franchise, capital, reserves, income, and property of the Institute shall be exempt from all taxation now or hereafter imposed by the United States, by any Indian tribe, or by any State or political subdivision thereof.

(20 U.S.C. 4420) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1513, 100 Stat. 1608.

SEC. 1514. TRANSFER OF FUNCTIONS.

(a) INSTITUTE OF AMERICAN INDIAN ARTS.—There are hereby transferred to the Institute of American Indian and Alaska Native Culture and Art Development, and such Institute shall perform, the functions of the Institute of American Indian Arts established by the Secretary in 1962.

(b) CERTAIN MATTERS RELATING TO TRANSFERRED FUNCTIONS.—

(1) All personnel, liabilities, contracts, real property (including the collections of the museum located on the site known as the "Santa Fe Indian School" but not the museum building), personal property, assets, and records as are determined by the Director of the Office of Management and Budget to be em-

ployed, held, or used primarily in connection with any function transferred under the provisions of this title (regardless of the administrative entity providing the services on the date before the transfer) shall be transferred to the Institute.

(2) Personnel engaged in functions transferred by this title shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions, except that such transfer shall be without reduction in classification or compensation for one year after such transfer.

(c) References in Other Laws.—All laws and regulations relating to the Institute of American Indian Arts established by the Secretary in 1962 shall, insofar as such laws and regulations are appropriate, and not inconsistent with the provisions of this title, remain in full force and effect and apply with respect to the Institute. All references in any other Federal law to the Institute of American Indian Arts, or any officer transferred to the Institute of American Indian and Alaska Native Culture and Arts Development under subsection (b), shall be deemed to refer to the Institute of American Indian and Alaska Native Culture and Arts Development or an officer of the Institute of American Indian and Alaska Native Culture and Arts Development.

(d) Technical and Support Assistance.—During the 2-year period beginning on the date referred to in subsection (f), the Secretary of the Interior shall provide such technical and support assistance to the Institute as the Secretary determines reasonable or necessary to assist the Institute. Such assistance shall include audit, accounting, computer services, and building and maintenance services.

(e) Advisory Board.—During the period beginning on the date of enactment of this title and ending on the date referred to in subsection (f), the Advisory Board for Institute of American Indian Arts shall continue to act in an advisory role for the Board and the Institute of American Indian and Alaska Native Culture and Arts Development.

(f) Effective Date.—The provisions of this section (other than subsection (e)) shall take effect on October 1, 1986.

(20 U.S.C. 4421) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1514, 100 Stat. 1607-1608.

SEC. 1515. REPORTS.

(a) Annual Report.—The President of the Institute shall submit an annual report to the Congress and to the Board concerning the status of the Institute during the 12 calendar months preceding the date of the report. Such report shall include, among other matters, a detailed statement of all private and public funds, gifts, and other items of a monetary value received by the Institute during such 12-month period and the disposition thereof as well as any recommendations for improving the Institute.

(b) Budget Proposal.—

(1) During the 2-year period beginning on the date referred to in section 1514(f), the Board shall submit a budget proposal to the Secretary of the Interior. The Secretary shall submit that proposal to the Congress.

(2) After the period described in paragraph (1) and for each fiscal year thereafter, the Board shall submit a budget proposal to the Congress.

(3) A budget proposal under this subsection shall be submitted not later than April 1 of each calendar year and shall propose a budget for the Institute for the 2 fiscal years succeeding the fiscal year during which such proposal is submitted.

(4) In determining the amount of funds to be appropriated to the Institute on the basis of such proposals, the Congress shall not consider the amount of private fundraising or bequests made on behalf of the Institute during any preceding fiscal year.

(20 U.S.C. 4422) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1515, 100 Stat. 1609.

SEC. 1516. HEADQUARTERS.

The site of the Institute of American Indian Arts, at Santa Fe, New Mexico, shall be maintained as the location for the Institute of Indian and Alaska Native Culture and Arts Development. To facilitate this action and the continuity of programs being provided at the Institute of American Indian Arts, the Secretary may enter into negotiations with State and local governments for such exchanges or transfers of lands and such other assistance as may be required.

(20 U.S.C. 4423) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1516, 100 Stat. 1609.

SEC. 1517. COMPLIANCE WITH OTHER ACTS.

(a) In General.—The Institute shall comply with the provisions of—

(1) Public Law 95-341 (42 U.S.C. 1996), popularly known as the American Indian Religious Freedom Act,

(2) the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and

(3) the National Historic Preservation Act (16 U.S.C. 470 et seq.).

(b) Criminal Laws.—All Federal criminal laws relating to larceny, embezzlement, or conversion of the funds or the property of the United States shall apply to the funds and property of the Institute.

(20 U.S.C. 4424) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1516, 100 Stat. 1609.

SEC. 1518. ENDOWMENT PROGRAM.

(a) Establishment.—

(1) From the amount appropriated pursuant to section 1521(a), the Secretary shall make available to the Institute not more than $500,000 which shall be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

(2) The President of the Institute shall provide for the deposit into the trust fund described in paragraph (1)—

(A) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

(B) any earnings on the funds deposited under paragraph (1) or subparagraph (A).

(3) Funds in the trust fund described in paragraph (1) shall be invested in a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for

similar funds deposited at the same banking or savings institution for the same period or periods of time.

(4) If at any time the Institute withdraws any capital contribution made by the Institute to the trust fund described in paragraph (1), an equal amount of Federal capital contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

(5) No part of the net earnings of the trust fund described in paragraph (1) shall inure to the benefit of any private person.

(6) The President of the Institute shall provide for such other provisions governing the trust fund described in paragraph (1) as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as are agreed to by the Secretary and the Institute, including recordkeeping procedures for the expenditure of accumulated interest which allow the Secretary to audit and monitor programs and activities conducted with such interest.

(b) USE OF FUNDS.—Interest deposited pursuant to subsection (a)(2)(B) in the trust fund described in subsection (a)(1) may be periodically withdrawn and used, at the discretion of the Institute, to defray any expenses associated with the operation of the Institute, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(c) COMPLIANCE WITH MATCHING REQUIREMENT.—For the purpose of complying with the contribution requirement of subsection (a)(2)(A), the Institute may use funds which are available from any private or tribal source.

(d) ALLOCATION OF FUNDS.—From the amount appropriated pursuant to section 1521(a), the Secretary shall allocate to the Institute an amount for a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of that Institute in accordance with subsection (a).

(20 U.S.C. 4425) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1518, 100 Stat. 1609-1610.

PART B—NATIVE HAWAIIANS

SEC. 1521. PROGRAM FOR NATIVE HAWAIIAN CULTURE AND ARTS DEVELOPMENT.

(a) IN GENERAL.—The Secretary of the Interior is authorized to make grants for the purpose of supporting a program for Native Hawaiian culture and arts development to any private, nonprofit organization or institution which—

(1) primarily serves and represents Native Hawaiians, and

(2) has been recognized by the Governor of the State of Hawaii for the purpose of making such organization or institution eligible to receive such grants.

(b) PURPOSE OF GRANTS.—Grants made under subsection (a) shall, to the extent deemed possible by the Secretary and the recipient of the grant, be used—

(1) to provide scholarly study of, and instruction in, Native Hawaiian art and culture,

(2) to establish programs which culminate in the awarding of degrees in the various fields of Native Hawaiian art and culture, or

(3) to establish centers and programs with respect to Native Hawaiian art and culture that are similar in purpose to the centers and programs described in subsections (b) and (c) of section 1510.

(c) MANAGEMENT OF GRANTS.—

(1) Any organization or institution which is the recipient of a grant made under subsection (a) shall establish a governing board to manage and control the program with respect to which such grant is made.

(2) The members of the governing board which is required to be established under paragraph (1) shall—

(A) be Native Hawaiians or individuals widely recognized in the field of Native Hawaiian art and culture,

(B) include a representative of the Office of Hawaiian Affairs of the State of Hawaii,

(C) include the president of the University of Hawaii,

(D) include the president of the Bishop Museum, and

(E) shall serve for a fixed term of office.

(20 U.S.C. 4441) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1521, 100 Stat. 1610-1611.

SEC. 1522. ADMINISTRATIVE PROVISIONS.

(a) PAYMENTS.—The Secretary may award grants under this part in installments, in advance, or by way of reimbursement and may make necessary adjustments in payments of grants on account of overpayments or underpayments.

(b) RECOVERY OF OVERPAYMENTS.—

(1) If the Secretary or a court of competent jurisdiction finds that—

(A) any person—

(i) has—

(I) made, or has caused to be made by another, a false statement or representation of a material fact knowing it to be false, or

(II) knowingly failed, or caused another to fail, to disclose a material fact; and

(ii) as a result of such action, has received any funds under this part which such person would not have otherwise received, or

(B) any person misappropriates any funds paid by the Secretary under this part,

such person shall be liable to repay the amount of such funds to the United States. Any such finding by the Secretary may be made only after an opportunity for a fair hearing.

(2) Any amount repaid under this subsection shall be returned to the general fund of the Treasury of the United States.

(c) PENALTIES.—Whoever—

(1) makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for such person or for any other person any payment of funds provided under this part, or

(2) misappropriates any funds provided under this part,
shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(20 U.S.C. 4442) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1522, 100 Stat. 1611-1612.

PART C—AUTHORIZATION OF APPROPRIATIONS

SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

(a) PART A.—There are authorized to be appropriated for the purpose of carrying out the provisions of part A of this title—

(1) for fiscal year 1987, $4,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

(b) PART B.—There are authorized to be appropriated for the purpose of carrying out the provisions of part B of this title—

(1) for fiscal year 1987, $1,000,000, and

(2) for each succeeding fiscal year, such sums as may be necessary to carry out such provisions.

(20 U.S.C. 4451) Enacted Oct. 17, 1986, P.L. 99-498, sec. 1531, 100 Stat. 1612.

LAND-GRANT COLLEGES

First Morrill Act

AN ACT Donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be granted to the several States, for the purposes hereinafter mentioned, an amount of public land, to be apportioned to each State a quantity equal to thirty thousand acres for each Senator and Representative in Congress to which the States are respectively entitled by the apportionment under the census of 1860: *Provided,* That no mineral lands shall be selected or purchased under the provisions of this act.

(7 U.S.C. 301) Enacted July 2, 1862, ch. 130, sec. 1, 12 Stat. 503.

SEC. 2. *And be it further enacted,* That the land aforesaid, after being surveyed, shall be apportioned to the several States in sections or subdivisions of sections, not less than one-quarter of a section; and wherever there are public lands in a State, subject to sale at private entry at one dollar and twenty-five cents per acre, the quantity to which said State shall be entitled shall be selected from such lands, within the limits of such State; and the Secretary of Interior is hereby directed to issue to each of the States, in which there is not the quantity of public lands subject to sale at private entry, at one dollar and twenty-five cents per acre, to which said State may be entitled under the provisions of this act, land scrip to the amount in acres for the deficiency of its distributive share; said scrip to be sold by said States and the proceeds thereof applied to the uses and purposes prescribed in this act, and for no other purposes whatsoever: *Provided,* That in no case shall any State to which land scrip may thus be issued be allowed to locate the same within the limits of any other State, or of any territory of the United States; but their assignees may thus locate said land scrip upon any of the unappropriated lands of the United States subject to sale at private entry, at one dollar and twenty-five cents, or less, an acre: *And provided further,* That not more than one million acres shall be located by such assignees in any one of the States: *And provided further,* That no such location shall be made before one year from the passage of this act.

(7 U.S.C. 302) Enacted July 2, 1862, ch. 130, sec. 2, 12 Stat. 503.

SEC. 3. *And be it further enacted,* That all the expenses of management, superintendence, and taxes from date of selection of said lands, previous to their sales, and all expenses incurred in the management and disbursement of moneys which may be received therefrom, shall be paid by the States to which they may belong, out of the treasury of said States, so that the entire proceeds of the sale of said lands shall be applied, without any diminution whatever, to the purposes hereinafter mentioned.

(7 U.S.C. 303) Enacted July 2, 1862, ch. 130, sec. 3, 12 Stat. 504.

SEC. 4. That all moneys derived from the sale of lands aforesaid by the States to which lands are apportioned and from the sale of land scrip hereinbefore provided for shall be invested in bonds of the United States or of the States or some other safe bonds; or the same may be invested by the States having no State bonds in any manner after the legislatures of such States shall have assented thereto and engaged that such funds shall yield a fair and reasonable rate of return, to be fixed by the State legislatures, and that the principal thereof shall forever remain unimpaired: *Provided,* That the moneys so invested or loaned shall constitute a perpetual fund, the capital of which shall remain forever undiminished (except so far as may be provided in section 5 of this act), and the interest of which shall be inviolably appropriated, by each State which may take and claim the benefit of this act, to the endowment, support, and maintenance of at least one college where the leading object shall be, without excluding other scientific and classical studies and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in such manner as the legislatures of the States may respectively prescribe, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life.

(7 U.S.C. 304) Enacted July 2, 1862, ch. 130, sec. 4, 12 Stat. 504; amended Mar. 3, 1883, ch. 102, 22 Stat. 484; amended Apr. 13, 1926, P.L. 113, 69th Cong., 44 Stat. 247.

SEC. 5. *And be it further enacted,* That the grant of land and land scrip hereby authorized shall be made on the following conditions, to which, as well as the provisions hereinbefore contained, the previous assent of the several States shall be signified by legislative acts:

First. If any portion of the fund invested, as provided by the foregoing section, or any portion of the interest thereon, shall, by any action or contingency, be diminished or lost, it shall be replaced by the State to which it belongs, so that the capital of the fund shall remain forever undiminished; and the annual interest shall be regularly applied without diminution to the purposes mentioned in the fourth section of this act, except that a sum, not exceeding 10 per centum upon the amount received by any State under the provisions of this act, may be expended for the purchase of lands for sites or experimental farms, whenever authorized by the respective legislatures of said States;

Second. No portion of said fund, nor the interest thereon, shall be applied, directly or indirectly, under any pretense whatsoever, to the purchase, erection, preservation, or repair of any building or buildings;

Third. Any State which may take and claim the benefit of the provisions of this act shall provide, within five years, at least not less than one college, as prescribed in the fourth section of this act, or the grant to such State shall cease; and said State shall be bound to pay the United States the amount received of any lands previously sold, and that the title to purchasers under the State shall be valid;

Fourth. An annual report shall be made regarding the progress of each college, recording any improvements and experiments made, with their costs and results, and such other matters, including State industrial and economical statistics, as may be supposed useful; one copy of which shall be transmitted by mail free, by each, to all the other colleges which may be endowed under the provisions of this act, and also one copy to the Secretary of the Interior;

Fifth. When lands shall be selected from those which have been raised to double the minimum price in consequence of railroad grants, they shall be computed to the States at the maximum price, and the number of acres proportionately diminished;

Sixth. No State, while in a condition of rebellion or insurrection against the Government of the United States, shall be entitled to the benefit of this act;

Seventh. No State shall be entitled to the benefits of this act unless it shall express acceptance thereof by its legislature within three years from July 23, 1866: *Provided,* That when any Territory shall become a State and be admitted into the Union such new State shall be entitled to the benefits of the said act of July second, eighteen hundred and sixty-two, by expressing the acceptance therein required within three years from the date of its admission into the Union, and providing the college or colleges within five years after such acceptance, as prescribed in this act.

(7 U.S.C. 305) Enacted July 2, 1862, ch. 130, sec. 5, 12 Stat. 504; amended Mar. 3, 1873, ch. 231, sec. 3, 17 Stat. 559.

SEC. 6. * * *

(7 U.S.C. 306) Enacted July 2, 1862, ch. 130, sec. 6, 12 Stat. 505; repealed Dec. 16, 1930, P.L. 547, 71st Cong., sec. 1, 46 Stat. 1028.

SEC. 7. *And be it further enacted,* That land officers shall receive the same fees for locating land scrip issued under the provisions of this act as is now allowed for the location of military bounty land warrants under existing laws: *Provided,* That their maximum compensation shall not be thereby increased.

(7 U.S.C. 307) Enacted July 2, 1862, ch. 130, sec. 7, 12 Stat. 505.

SEC. 8. *And be it further enacted,* That the governors of the several States to which scrip shall be issued under this act shall be required to report annually to Congress all sales made of such scrip until the whole shall be disposed of, the amount received for the same, and what appropriation has been made of the proceeds.

(7 U.S.C. 308) Enacted July 2, 1862, ch. 130, sec. 8, 12 Stat. 505.

Second Morrill Act

AN ACT To apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and mechanic arts established under the provisions of an act of Congress approved July second, eighteen hundred and sixty-two

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be and hereby is, annually appropriated, out of any money in the Treasury not otherwise appropriated, to be paid as hereinafter provided, to each State and Territory for the more complete endowment and maintenance of colleges for the benefit of agriculture and the mechanic arts now established, or which may hereafter be established, in accordance with the act of Congress approved July second, eighteen hundred and sixty-two, and the act of Congress approved August thirtieth, eighteen hundred and ninety, the sum of five thousand dollars, in addition to the sums named in said act for the fiscal year ending June thirtieth, nineteen hundred and eight, and an annual increase of the amount of such appropriation thereafter for four years by an additional sum of five thousand dollars over the preceding year, and the annual sum to be paid thereafter to each State and Territory shall be fifty thousand dollars, to be applied only to instruction in food and agriculture sciences and to the facilities for such instruction: *Provided,* That said colleges may use a portion of this money for providing courses for the special preparation of instructors for teaching the elements of food and agriculture sciences: *Provided,* That no money shall be paid out under this act to any State or Territory for the support and maintenance of a college where a distinction of race or color is made in the admission of students, but the establishment and maintenance of such colleges separately for white and colored students shall be held to be a compliance with the provisions of this act if the funds received in such State or Territory be equitably divided as hereinafter set forth: *Provided,* That in any State in which there has been one college established in pursuance of the act of July second, eighteen hundred and sixty-two, and also in which an educational institution of like character has been established, or may be hereafter established, and is on August 30, 1890 aided by such State from its revenue, for the education of colored students in agriculture and the mechanic arts, however named or styled, or whether or not it has received money prior to August 30, 1890, under the said act, the legislature of such a State may propose and report to the Secretary of Health, Education, and Welfare a just and equitable division of the fund to be received under this act between one college for white students and one institution for colored students established as aforesaid, which shall be divided into two parts and paid accordingly, and thereupon such institution for colored students shall be entitled to the benefits of this act and subject to its provisions, as much as it would have been if it had been included under the act of eighteen hundred and sixty-two, and the fulfillment of the foregoing provisions shall be taken as a compliance with the provision in reference to separate colleges for white and colored students.

(7 U.S.C. 322, 323) Enacted August 30, 1890, ch 841, sec. 1, 26 Stat. 417; amended March 4, 1907, P.L. 242, 59th Cong., 34 Stat. 1282; authority transferred with the

Office of Education to the Federal Security Agency July 1, 1939, 1939 Reorg. Plan No. 1, secs. 201, 204, 4 F.R. 2728, 53 Stat. 1424; transferred to the Dept. of H.E.W. April 11, 1953, 1953 Reorg. Plan No. 1, secs. 5, 8, 18 F.R. 2053, 67 Stat. 631; amended P.L. 97-98.

Sec. 2. That the sums hereby appropriated to the States and Territories for the further endowment and support of colleges shall be annually paid on or before the thirty-first day of October of each year, by the Secretary of the Treasury, upon the warrant of the Secretary of Health, Education, and Welfare, out of the Treasury of the United States, to the State or Territorial treasurer, or to such officer as shall be designated by the laws of such State or Territory to receive the same, who shall, upon the order of the trustees of the colleges, or the institution for colored students, immediately pay over said sums to the treasurers of the respective colleges or other institutions entitled to receive the same, and such treasurers shall be required to report to the Secretary of Agriculture and to the Secretary of Health, Education, and Welfare, on or before the first day of December of each year, a detailed statement of the amount so received and of its disbursement. The grants of moneys authorized by this Act are made subject to the legislative assent of the several States and Territories to the purpose of said grants: *Provided*, That payments of such installments of the appropriation herein made as shall become due to any State before the adjournment of the regular session of legislature meeting next after the passage of this Act shall be made upon the assent of the governor thereof, duly certified to the Secretary of the Treasury.

(7 U.S.C. 324) Enacted August 30, 1890, ch. 841, sec. 2, 26 Stat. 418; amended April 21, 1976, P.L. 94-273, sec. 9(1), 90 Stat. 378.

Sec. 3. That if any portion of the moneys received by the designated officer of the State or Territory for the further and more complete endowment, support, and maintenance of colleges, or of institutions for colored students, as provided in this act, shall, by any action or contingency, be diminished or lost, or be misapplied, it shall be replaced by the State or Territory to which it belongs, and until so replaced no subsequent appropriation shall be apportioned or paid to such State or Territory; and no portion of said moneys shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings. An annual report by the president of each of said colleges shall be made to the Secretary of Agriculture, as well as to the Secretary of Health, Education, and Welfare, regarding the condition and progress of each college, including statistical information in relation to its receipts and expenditures, its library, the number of its students and professors, and also as to any improvements and experiments made under the direction of any experiment stations attached to said colleges, with their costs and results, and such other industrial and economical statistics as may be regarded as useful, one copy of which shall be transmitted by mail free to all other colleges further endowed under this act.

(7 U.S.C. 325) Enacted August 30, 1890, ch. 841, sec. 3, 26 Stat. 418.

Sec. 4. That on or before the first day of October in each year, after the passage of this act, the Secretary of Health, Education, and Welfare shall ascertain and certify to the Secretary of the Treasury as to each State and Territory whether it is entitled to receive its share of the annual appropriation for colleges, or of institutions for colored students, under this act, and the amount which thereupon each is entitled, respectively, to receive. If the Secretary of Health, Education, and Welfare shall withhold a certificate for any State or Territory of its appropriation, the fact and reasons therefor shall be reported to the President, and the amount involved shall be kept separate in the Treasury until the close of the next Congress, in order that the State or Territory, may, if it should so desire, appeal to Congress from the determination of the Secretary of Health, Education, and Welfare. If the next Congress shall not direct such sum to be paid, it shall be covered into the Treasury. And the Secretary of Health, Education, and Welfare is hereby charged with the proper administration of this law.

(7 U.S.C. 321, 326) Enacted August 30, 1890, ch. 841, sec. 4, 26 Stat. 419, amended April 21, 1976, P.L. 94-273, sec. 3(1), 90 Stat. 376.

Sec. 5. There is authorized to be appropriated annually for payment to the Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (other than the Northern Mariana Islands) the amount they would receive under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of this Act.

(7 U.S.C. 327) Enacted June 23, 1972, P.L. 92-318, sec. 506(c), 86 Stat. 350; amended October 3, 1980, P.L. 96-374, sec. 1361(b), 94 Stat. 1502; amended Aug. 27, 1986, P.L. 99-396, sec. 9(b), 100 Stat. 840.

Sec. 6. Congress may at any time amend, suspend, or repeal any or all of the provisions of this act.

(7 U.S.C. 328) Enacted August 30, 1890, ch. 841, sec. 5, 26 Stat. 419.

Bankhead-Jones Act

AN ACT Providing for research into basic laws and principles relating to agriculture, further development of cooperative agricultural extension work, and more complete endowment and support of land-grant colleges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

SEC. 22. In order to provide for the more complete endowment and support of the colleges in the several States, Puerto Rico, the Virgin Islands, and Guam entitled to the benefits of the Act entitled "An Act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic acts," approved July 2, 1862, as amended and supplemented (7 U.S.C. 301-328), there are hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriate, the following amounts:

(a) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter, $8,100,000; and

(b) For the first fiscal year beginning after the date of enactment of this Act, and for each fiscal year thereafter $4,360,000.

The sums appropriated in pursuance of paragraph (a) shall be paid annually to the several States, Puerto Rico, the Virgin Islands, and Guam in equal shares. The sums appropriated in pursuance of paragraph (b) shall be in addition to sums appropriated in pursuance of paragraph (a) and shall be allotted and paid annually to each of the several States, Puerto Rico, the Virgin Islands, and Guam in the proportion to which the total population of each State, Puerto Rico, the Virgin Islands, and Guam bears to the total population of all the States, Puerto Rico, the Virgin Islands, and Guam as determined by the last preceding decennial census. Sums appropriated in pursuance of this section shall be in addition to sums appropriated or authorized under such Act of July 2, 1862, as amended and supplemented, and shall be applied only for the purposes of the colleges defined in such Act, as amended and supplemented. The provisions of law applicable to the use and payment of sums under the Act entitled "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts established under the provisions of an Act of Congress approved July 2, 1862," approved August 30, 1890, as amended and supplemented, shall apply to the use and payment of sums appropriated in pursuance of this section.

(7 U.S.C. 329) Enacted June 29, 1935. P.L. 182, 74th Cong., sec. 22, 49 Stat. 439; amended June 29, 1952, P.L. 390, 82nd Cong., secs. 1-4, 66 Stat. 135, amended July 14, 1960, P.L. 86-658, sec. 1, 74 Stat. 525; amended June 23, 1972, P.L. 92-318, sec. 506(d), 86 Stat. 350, 351.

Harry S Truman Memorial Scholarship Act

AN ACT To establish the Harry S Truman memorial scholarships, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Harry S Truman Memorial Scholarship Act".

(20 U.S.C. 2001, note) Enacted January 4, 1975, P.L. 93-642, sec. 1, 88 Stat. 2276.

STATEMENTS OF FINDINGS

SEC. 2. The Congress finds that—

because a high regard for the public trust and a lively exercise of political talents were outstanding characteristics of the thirty-third President of the United States;

because a special interest of the man from Independence in American history and a broad knowledge and understanding of the American political and economic system gained by study and experience in county and National Government culminated in the leadership of America remembered for the quality of his character, courage, and commonsense;

because of the desirability of encouraging young people to recognize and provide service in the highest and best traditions of the American political system at all levels of government, it is especially appropriate to honor former President Harry S Truman through the creation of perpetual education scholarship program to develop increased opportunities for young Americans to prepare and pursue careers in public service.

(20 U.S.C. 2001) Enacted January 4, 1975, Public Law 93-642, sec. 2, 88 Stat. 2276.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "Board" means the Board of Trustees of the Harry S Truman Scholarship Foundation;

(2) "Foundation" means the Harry S Truman Scholarship Foundation;

(3) "fund" means the Harry S Truman Memorial Scholarship Fund;

(4) "institution of higher education" means any such institution as defined by section 1201(a) of the Higher Education Act of 1965;

(5) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and considered as a single entity, Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands; and

(6) "Secretary" means the Secretary of the Treasury.

(20 U.S.C. 2002) Enacted January 4, 1975, Public Law 93-642, sec. 3, 88 Stat. 2276.

SEC. 4. The Harry S Truman Scholarship Program as authorized by this Act shall be the sole Federal memorial to President Harry S Truman.

(20 U.S.C. 2003) Enacted January 4, 1975, Public Law 93-642, sec. 4, 88 Stat. 2277.

ESTABLISHMENT OF THE HARRY S TRUMAN SCHOLARSHIP PROGRAM

SEC. 5. (a) There is established, as an independent establishment of the executive branch of the United States Government, the Harry S Truman Scholarship Foundation.

(b) (1) The Foundation shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of thirteen members, as follows:

(A) two Members of the Senate, one from each political party, to be appointed by the President of the Senate;

(B) two Members of the House of Representatives, one from each political party, to be appointed by the Speaker;

(C) eight members not more than four of whom shall be of the same political party, to be appointed by the President with the advice and consent of the Senate, of whom one shall be a chief executive officer of a State, one a chief executive officer of a city or county, one a member of a Federal Court, one a member of a State court, one a person active in postsecondary education, and three representatives of the general public; and

(D) the Commissioner of Education or his designate, who shall serve ex officio as a member of the Board, but shall not be eligible to serve as Chairman.

(c) The term of office of each member of the Board shall be six years; except that (1) the members first taking office shall serve as designated by the President, four for terms of two years, five for terms of four years, and four for terms of six years, and (2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed, and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(20 U.S.C. 2004) Enacted January 4, 1975, Public Law 93-642, 88 Stat. 2277.

SCHOLARSHIPS

SEC. 6. (a) The Foundation is authorized to award scholarships to persons who demonstrate outstanding potential for and who plan to pursue a career in public service. Award recipients shall be known as Truman scholars.

(b) Scholarships under this Act shall be awarded for such periods as the Foundation may prescribe but not to exceed four academic years.

(c) A student awarded a scholarship under this Act may attend any institution of higher education offering courses of study, training, or other educational activities designed to prepare persons for a career in public service as determined pursuant to criteria established by the Foundation.

(d) Each student awarded a scholarship under this Act must have indicated a serious intent to enter the public service upon the completion of his or her educational program. Each institution of higher education at which such a student is in attendance will make reasonable continuing efforts to encourage such a student to enter the public service upon completing his or her educational program.

(20 U.S.C. 2005) Enacted January 4, 1975, Public Law 93-642, 88 Stat. 2278.

SELECTION OF TRUMAN SCHOLARS

SEC. 7. (a) The Foundation is authorized, either directly or by contract, to provide for the conduct of a nationwide competition for the purpose of selecting Truman scholars.

(b) The Foundation shall adopt selection procedures which shall assure that at least one Truman scholar shall be selected each year from each State in which there is at least one resident applicant who meets the minimum criteria established by the Foundation.

(20 U.S.C. 2006) Enacted January 4, 1975, Public Law 93-642, sec. 7, 88 Stat. 2278.

STIPENDS

SEC. 8. Each student awarded a scholarship under this Act shall receive a stipend which shall not exceed the cost to such students for tuition, fees, books, room and board, or $10,000 (adjusted annually to reflect increases, if any, in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics) whichever is less for each academic year of study.

(20 U.S.C. 2007) Enacted January 4, 1975, Public Law 93-642, sec. 8, 88 Stat. 2278; amended Nov. 22, 1985, P.L. 99-159, 99 Stat. 904.

SCHOLARSHIP CONDITIONS

SEC. 9. (a) A student awarded a scholarship under the provisions of this Act shall continue to receive the payments provided in this Act only during such periods as the Foundation finds that he or she is maintaining satisfactory proficiency and devoting full time to study or research designed to prepare him or her for a career in public service and is not otherwise engaging in gainful employment other than employment approved by the Foundation pursuant to regulation.

(b) The Foundation is authorized to require reports containing such information in such form and to be filed at such times as the Foundation determines to be necessary from any student awarded a scholarship under the provisions of this act. Such reports shall be accompanied by a certificate from any appropriate official at the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, study or research, except as otherwise provided in subsection (a).

(20 U.S.C. 2008) Enacted January 4, 1975, Public Law 93-642, sec. 9, 88 Stat. 2278.

TRUMAN MEMORIAL SCHOLARSHIP FUND

SEC. 10. (a) There is established in the Treasury of the United States a trust fund to be known as the Harry S Truman Memorial Scholarship Trust Fund. The fund shall consist of amounts appropriated to it by section 14 of this act.

(b) It shall be the duty of the Secretary to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market place. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligation shall bear interest a a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eight of 1 per centum next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(20 U.S.C. 2009) Enacted January 4, 1975, Public Law 93-642, sec. 10, 88 Stat. 2279.

EXPENDITURES FROM THE FUND

SEC. 11. (a) The Secretary is authorized to pay to the Foundation from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the purposes of the Act.

(b) The activities of the Foundation under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

(20 U.S.C. 2010) Enacted January 4, 1975, Public Law 93-642, sec. 11, 88 Stat. 2279.

EXECUTIVE SECRETARY

SEC. 12. (a) There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Secretary shall carry out such other functions consistent with the provisions of this Act as the Board shall delegate.

(b) The Executive Secretary of the Foundation shall be compensated at the rate specified for employees placed in grade 18 of the General Schedule set forth in section 5332 of title 5, United States Code.

(20 U.S.C 2011) Enacted January 4, 1975, Public Law 93-642, sec. 12, 88 Stat. 2280.

ADMINISTRATIVE PROVISIONS

SEC. 13. (a) In order to carry out the provisions of this Act, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Secretary be compensated at a rate to exceed the rate provided for employees in grade 15 of the General Schedule set forth in section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

(7) make advances, progress, and other payments which the Board deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(8) rent office space in the District of Columbia; and

(9) make other necessary expenditures.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this Act.

(20 U.S.C. 2012) Enacted January 4, 1975, Public Law 93-642, sec. 14, 88 Stat. 2280.

APPROPRIATIONS AUTHORIZED

SEC. 14. There are authorized to be appropriated $30,000,000 to the fund.

(20 U.S.C. 2013) Enacted January 4, 1975, Public Law 93-642, sec. 14, 88 Stat. 2280.

PART II—NATIVE AMERICAN HIGHER EDUCATION

Navajo Community College Act[1]

(P.L. 92-189)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Navajo Community College Act".

(25 U.S.C. 640a, note) Enacted December 15, 1971, P.L. 92-189, sec. 1, 85 Stat. 646.

PURPOSE

SEC. 2. It is the purpose of this Act to assist the Navajo Tribe of Indians in providing education to the members of the tribe and other qualified applicants through a community college, established by that tribe, known as the Navajo Community College.

(25 U.S.C. 640a) Enacted December 15, 1971, P.L. 92-189, sec. 2, 85 Stat. 646.

GRANTS

SEC. 3. The Secretary of Interior is authorized to make grants to the Navajo Tribe of Indians to assist the tribe in the construction, maintenance, and operation of the Navajo Community College. Such college shall be designed and operated by the Navajo Tribe to insure that the Navajo Indians and other qualified applicants have educational opportunities which are suited to their unique needs and interests.

(25 U.S.C. 640b) Enacted December 15, 1971, P.L. 92-189, sec. 3, 85 Stat. 646.

STUDY OF FACILITIES NEEDS

SEC. 4.[2] (a) The Secretary shall conduct a detailed survey and study of the academic facilities needs of the Navajo Community College, and shall report to the Congress not later than August 1, 1979, the results of such survey and study. Such report shall include any recommendations or views submitted by the governing body of such College and by the governing body of the Navajo Tribe, and shall include detailed recommendations by the Secretary as to the number, type, and cost of academic facilities which are required, ranking each such required facility by relative need.

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[1] Enacted Dec. 15, 1971, P.L. 92-189, 84 Stat. 646.

This statute was amended Oct. 17, 1978 by Title II of the Tribally Controlled Community College Assistance Act of 1978 (entitled "Navajo Community College Assistance Act of 1978", P.L. 95-471, Title II, 92 Stat. 1329-1331) which includes the following congressional findings:

"CONGRESSIONAL FINDINGS

"Sec. 202. The Congress after careful study and deliberation, finds that—

"(1) the Navajo Tribe constitutes the largest American Indian tribe in the United States;

"(2) the Navajo Tribe has, through its duly constituted tribal council and representatives, established a community college within the boundaries of the reservation;

"(3) the population of the Navajo Tribe and the best area of the Navajo reservation requires that the Navajo Community College expand to better serve the needs of such population; and

"(4) the Congress has already recognized the need for this institution by the passage of the Navajo Community College Act.".

Section 203(b) of this Act (P.L. 95-471, Title II) states that "Nothing in this title or in the amendment made by this title shall be deemed to authorize appropriations for the fiscal year beginning October 1, 1978."

[2] This section was expressly precluded from authorizing appropriations for the fiscal year beginning Oct. 1, 1978 by sec. 203(b) of P.L. 95-471.

(b) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of the Tribally Controlled Community College Assistance Act of 1978.

(25 U.S.C. 640c) Enacted December 15, 1971, P.L. 92-189, sec. 4, 85 Stat. 646; amended October 17, 1978, P.L. 95-471, sec. 203(a), 92 Stat. 1330.

AUTHORIZATION OF APPROPRIATIONS

SEC. 5. (a)(1) For the purpose of making construction grants under this Act, there are hereby authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, 1989, and 1990.

(2) Sums appropriated pursuant to this subsection for construction shall, unless otherwise provided in appropriations Acts, remain available until expended.

(b)(1) There is further authorized to be appropriated for grants to the Navajo Community College, for each fiscal year beginning on or after October 1, 1979, an amount equal to the amount necessary for operation and maintenance of the college, including, but not limited to, administrative, academic, and operations and maintenance costs.

(2) No grant under this subsection shall exceed—

(A) $4,000 for each such full-time equivalent Indian student in actual attendance at such college; or

(B) the total annual cost of the education program provided by such college,

whichever is less.

(3) The Secretary shall make payments, pursuant to grants under this subsection, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c) The Secretary of the Interior is authorized and directed to establish by rule procedures to insure that all funds appropriated under this Act are properly identified for grants to the Navajo Community College and that such funds are not commingled with appropriations historically expended by the Bureau of Indian Affairs for programs and projects normally provided on the Navajo Reservation for Navajo beneficiaries.

(25 U.S.C. 640c-1) Enacted October 17, 1978, P.L. 95-471, sec. 203(a), 92 Stat. 1330; amended October 3, 1980, P.L. 96-374, sec. 1351, 94 Stat 1501; amended September 30, 1986, P.L. 99-428, sec. 7, 100 Stat. 983.

EFFECT ON OTHER LAWS

SEC. 6. Except as specifically provided by law, eligibility for assistance under this Act shall not, by itself, preclude the eligibility of the Navajo Community College to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(25 U.S.C. 640-2) Enacted Oct. 3, 1980, P.L. 96-374, sec. 1351(c), 94 Stat. 1501.

Tribally Controlled Community College Assistance Act of 1978

(P.L. 95–471)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Tribally Controlled Community College Assistance Act of 1978".

(25 U.S.C. 1801 note) Enacted October 17, 1978, P.L. 95–471, sec. 1, 92 Stat. 1325.

DEFINITIONS

SEC. 2. (a) For purposes of this Act, the term—

(1) "Indian" means a person who is a member of an Indian tribe;

(2) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(3) "Secretary", unless otherwise designated, means the Secretary of the Interior;

(4) "tribally controlled community college" means an institution of higher education which is formally controlled, or has been formally sanctioned, or chartered, by the governing body of an Indian tribe or tribes, except that no more than one such institution shall be recognized with respect to any such tribe;

(5) "institution of higher education" means an institution of higher education as defined by section 1201(a) of the Higher Education Act of 1965, except that clause (2) of such section shall not be applicable and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior;

(6) "national Indian organization" means an organization which the Secretary finds is nationally based, represents a substantial Indian constituency, and has expertise in the field of Indian education;

(7) "Indian student count" means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve; and

(8) "satisfactory progress toward a degree or certificate" has the meaning given to such term by the institution at which the student is enrolled.

(b) The following conditions shall apply for the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a):

(1) Such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term.

(2) Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

(3) Credits earned by any student who has not obtained a high school degree or its equivalent shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credits earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.

(4) Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours.

(5) Credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program.

(6) No credit hours earned by an Indian student who is not making satisfactory progress toward a degree or certificate, shall be taken into account.

(25 U.S.C. 1801) Enacted October 17, 1978, P.L. 95-471, sec. 1, 92 Stat. 1325; amended December 1, 1983, P.L. 98-192, sec. 1, 97 Stat. 1335; amended September 30, 1986, P.L. 99-428, sec. 3, 100 Stat. 982.

TITLE I—TRIBALLY CONTROLLED COMMUNITY COLLEGES

PURPOSE

SEC. 101. It is the purpose of this title to provide grants for the operation and improvement of tribally controlled community colleges to insure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

(25 U.S.C. 1802) Enacted October 17, 1978, P.L. 95-471, title I, sec. 101, 92 Stat. 1325; amended December 1, 1983, P.L. 98-192, sec. 2, 97 Stat. 1336.

GRANTS AUTHORIZED

SEC. 102. (a) The Secretary shall, subject to appropriations, make grants pursuant to this title to tribally controlled community colleges to aid in the postsecondary education of Indian students.

(b) Grants made pursuant to this title shall go into the general operating funds of the institution to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college. Funds provided pursuant to this title shall not be used in connection with religious worship or sectarian instruction.

(25 U.S.C. 1803) Enacted October 17, 1978, P.L. 95–471, title I, sec. 102, 92 Stat. 1326; amended December 1, 1983, P.L. 98–192, sec. 3, 97 Stat. 1336.

ELIGIBLE GRANT RECIPIENTS

SEC. 103. To be eligible for assistance under this title, a tribally controlled community college must be one which—

(1) is governed by a board of directors or board of trustees a majority of which are Indians;

(2) demonstrates adherence to stated goals, a philosophy, or a plan of operation which is directed to meet the needs of Indians; and

(3) if in operation for more than one year, has students a majority of whom are Indians.

(25 U.S.C. 1804) Enacted October 17, 1978, P.L. 95–471, title I, sec. 103, 92 Stat. 1326.

PLANNING GRANTS

SEC. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities (1) to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled community colleges, or (2) to determine the need and potential for the establishment of such colleges.

(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this section.

(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than $15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.

(25 U.S.C. 1804a) Enacted December 1, 1983, P.L. 98–192, sec. 4(a)(2), 97 Stat. 1336.

TECHNICAL ASSISTANCE CONTRACTS

SEC. 105. The Secretary shall provide, upon request from a tribally controlled community college which is receiving funds under section 108, technical assistance either directly or through contract. In the awarding of contracts for technical assistance, preference shall be given to an organization designated by the tribally controlled community college to be assisted. No authority to enter into contracts provided by this section shall be effective except to the extent authorized in advance by appropriations Acts.

(25 U.S.C. 1805) Enacted October 17, 1978, P.L. 95–471, title I, sec. 104, 92 Stat. 1326; amended December 1, 1983, P.L. 98–192, secs. 4, 5, 97 Stat. 1336.

ELIGIBILITY STUDIES

SEC. 106. (a) The Secretary is authorized to enter into an agreement with the Secretary of Education to assist the Bureau of Indian Affairs in developing plans, procedures, and criteria for conducting the eligibility studies required by this section. Such agreement shall provide for continuing technical assistance in the conduct of such studies.

(b) The Secretary, within thirty days after a request by any Indian tribe, shall initiate a eligibility study to determine whether there is justification to encourage and maintain a tribally controlled community college, and, upon a positive determination, shall aid in the preparation of grant applications and related budgets which will insure successful operation of such an institution. Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made.

(c) Funds to carry out the purposes of this section for any fiscal year may be drawn from either—

(1) general administrative appropriations to the Secretary made after the date of enactment of this Act for such fiscal year; or

(2) not more than 5 per centum of the funds appropriated to carry out section 107 for such fiscal year.

(25 U.S.C. 1806) Enacted October 17, 1978, P.L. 95–471, title I, sec. 105, 92 Stat. 1326; amended October 17, 1979, P.L. 96–88, title III, sec. 301(a)(1), title V, sec. 507, 93 Stat. 677, 692; amended December 1, 1983, P.L. 98–192, sec. 3(b), 4(a)(1), (b)(1), 6(a), 97 Stat. 1336, 1337.

GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 107. (a) Grants shall be made under this title only in response to applications by tribally controlled community colleges. Such applications shall be submitted at such time, in such manner, and will contain or be accompanied by such information as the Secretary may reasonably require pursuant to regulations. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds. The Secretary shall not consider any grant application unless a eligibility study has been conducted under section 106 and it has been found that the applying community college will service a reasonable student population.

(b) The Secretary shall consult with the Secretary of Education to determine the reasonable number of students required to support a tribally controlled community college. Consideration shall be given to such factors as tribal and cultural differences, isolation, the presence of alternate education sources, and proposed curriculum.

(c) Priority in grants shall be given to institutions which are operating on the date of enactment of this Act and which have a history of service to the Indian people. In the first year for which funds are appropriated to carry out this section, the number of grants shall be limited to not less than eight nor more than fifteen.

(d) In making grants pursuant to this section, the Secretary shall, to the extent practicable, consult with national Indian organizations and with tribal governments chartering the institutions being considered.

(25 U.S.C. 1807) Enacted October 17, 1978, P.L. 95–471, title I, sec. 106, 92 Stat. 1327; amended October 17, 1979, P.L. 96–88, title III, sec. 301(a)(1), title V, sec. 507, 93 Stat. 677, 692; amended December 21, 1982, P.L. 97–375, title I, sec. 108(c), 96 Stat. 1820; amended December 1, 1983, P.L. 98–192, secs. 3(b), 4(a)(1), (b)(2), 6(b), 97 Stat. 1336, 1337.

AMOUNT OF GRANTS

SEC. 108. (a) Except as provided in section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of—

(1) the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 2(a)(7) of this Act; and

except that no grant shall exceed the total cost of the education program provided by such college.

(b) The Secretary shall make payments, pursuant to grants under this title, in advance installments of not less than 40 per centum of the funds available for allotment, based on anticipated or actual numbers of full-time equivalent Indian students or such other factors as determined by the Secretary. Adjustments for overpayments and underpayments shall be applied to the remainder of such funds and such remainder shall be delivered no later than July 1 of each year.

(c)(1) Each institution receiving payments under this title shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may request.

(2) The Secretary shall, in consultation with the National Center for Education Statistics, establish a data collection system for the purpose of obtaining accurate information with respect to the needs and costs of operation and maintenance of tribally controlled community colleges.

(25 U.S.C. 1808) Enacted October 17, 1978, P.L. 95–471, title I, sec. 107, 92 Stat. 1327; amended December 21, 1982, P.L. 97–375, title I, sec. 108(c), 96 Stat. 1820, amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 7, 97 Stat. 1336, 1337; amended September 30, 1986, P.L. 99–498, sec. 4, 100 Stat. 983.

EFFECT ON OTHER PROGRAMS

SEC. 109. (a) Except as specifically provided in this title, eligibility for assistance under this title shall not, by itself, preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

(b)(1) The amount of any grant for which tribally controlled community colleges are eligible under section 108 shall not be altered because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(2) No tribally controlled community college shall be denied funds appropriated under such Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(3) No tribally controlled community college for which a tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (25

U.S.C. 450 et seq.) (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

(25 U.S.C. 1809) Enacted October 17, 1978, P.L. 95-471, title I, sec. 108, 92 Stat. 1328; amended December 1, 1983, P.L. 98-192, sec. 4(a)(1), 8, 97 Stat. 1336, 1337; amended September 30, 1986, P.L. 99-428, sec. 5, 100 Stat. 983.

APPROPRIATION AUTHORIZATION

SEC. 110. (a)(1) There is authorized to be appropriated, for the purpose of carrying out section 105, $3,200,000 for each of the fiscal years 1987, 1988, 1989, and 1990.

(2) There is authorized to be appropriated for the purpose of carrying out section 107, $30,000,000 for each of the fiscal years 1987, 1988, 1989, and 1990.

(3) There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out sections 112(b) and 113 for each of the fiscal years 1987, 1988, 1989, and 1990.

(b)(1) For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriation Act for any fiscal year to carry out this Act shall become available for obligation on July 1 of that fiscal year and shall remain available until September 30 of the succeeding fiscal year.

(2) In order to effect a transition to the forward funding method of timing appropriation action described in paragraph (1), there are authorized to be appropriated, in an appropriation Act or Acts for the same fiscal year, two separate appropriations to carry out this Act, the first of which shall not be subject to paragraph (1).

(25 U.S.C. 1810) Enacted October 17, 1978, P.L. 95-471, title I, sec. 109, 92 Stat. 1328; amended December 1, 1983, P.L. 98-192, sec. 4(a)(1), 9, 97 Stat. 1336, 1337; amended September 30, 1986, P.L. 99-428, sec. 2(a), 100 Stat. 982.

GRANT ADJUSTMENTS

SEC. 111. (a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year—

(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 per centum of the product of—

(i) the per capita payment for the preceding fiscal year; and

(ii) such applicant's Indian student count for the current fiscal year;

(B) the Secretary shall next allocate to applicants who did not receive funds under such section for the preceding fiscal year an amount equal to 100 per centum of the product of—

(i) the per capita payment for the preceding fiscal year; and

(ii) the applicant's Indian student count for the current fiscal year;

in the order in which such applicants have qualified for assistance in accordance with such section so that no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

(C) if additional funds remain after making the allocations required by subparagraphs (A) and (B), the Secretary shall allocate such funds by—

(i) ratably increasing the amounts of the grants determined under subparagraph (A) until such grants are equal to 100 per centum of the product described in such subparagraph; and

(ii) then ratably increasing the amounts of both (I) the grants determined under subparagraph (A), as increased under clause (i) of this subparagraph, and (II) the grants determined under subparagraph (B).

(2) For purposes of paragraph (1) of this subsection, the term "per capita payment" for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled community colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.

(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A), the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.

(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total amounts.

(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1983, be deemed to refer to section 106 as in effect at the beginning of such fiscal year.

(c) In any fiscal year in which the amounts for which grant recipients are eligible to receive have been reduced under the first sentence of subsection (a) of this section, and in which additional funds have not been made available to pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for allocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 107(a) of this title.

(25 U.S.C. 1811) Enacted October 17, 1978, P.L. 95-471, title I, sec. 110, 92 Stat. 1328; amended December 1, 1983, P.L. 98-192, sec. 4(a)(1), 4(b)(3), 10, 97 Stat. 1336, 1338.

REPORT ON FACILITIES

SEC. 112. (a) The Secretary shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than eighteen months after the date of enactment of the Tribally Controlled Community College Assistance Amendments of 1986. Such report shall also include an identification of property—

(1) on which structurally sound buildings suitable for use as educational facilities are located, and

(2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

(b) The Secretary, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

(c) For the purposes of this section, the term "reconstruction" has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B)).

(25 U.S.C. 1812) Enacted October 17, 1978, P.L. 95-471, title I, sec. 111, 92 Stat. 1328; amended December 1, 1983, P.L. 98-192, sec. 4(a)(1), 11, 97 Stat. 1336, 1339; amended September 30, 1986, P.L. 99-428, sec. 6(b), 100 Stat. 983.

CONSTRUCTION OF NEW FACILITIES

SEC. 113. (a) With respect to any tribally controlled community college for which the report of the Administrator of General Services under section 112(a) of this Act identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

(b) In order to be eligible for a grant under this section, a tribally controlled community college—

(1) must be a current recipient of grants under section 105 or 107, and

(2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), except that such requirement may be waived if the Secretary determines that there is a reasonable

expectation that such college will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

(c)(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled community college shall be required to expend more than $400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled community college may use funds provided under the Act of November 2, 1921 (25 U.S.C. 13), popularly referred to as the Snyder Act.

(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled community college which demonstrates that neither such college nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

(d) If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

(1) the facility ceases to be used by the applicant in a public or nonprofit capacity as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

(2) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in futherance of the general welfare of the community served by the tribal government,

title to the facility shall vest in the United States and the applicant (or such tribe if such tribe is the successor in title to the facility) shall be entitled to recover from the United States an amount which bears the same ratio to the present value of the facility as the amount of the applicant's contribution (excluding any funds provided under the Act of November 2, 1921 (25 U.S.C. 13)) bore to the original cost of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

(e) No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a school or department of divinity.

(f) For the purposes of this section—

(1) the term "construction" includes reconstruction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B))); and

(2) the term "academic facilities" has the meaning provided such term under section 742(1) of the Higher Education Act of 1965 (20 U.S.C. 1132e–1(1)).

(25 U.S.C. 1813) Enacted October 17, 1978, P.L. 95–471, title I, sec. 112, 92 Stat. 1329; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 12, 97 Stat. 1336, 1340.

MISCELLANEOUS PROVISIONS

Sec. 114. (a) The Navajo Tribe shall not be eligible to participate under the provisions of this title.

(b)(1) The Secretary shall not provide any funds to any institution which denies admission to any Indian student because such individual is not a member of a specific Indian tribe, or which denies admission to any Indian student because such individual is a member of a specific tribe.

(2) The Secretary shall take steps to recover any unexpended and unobligated funds provided under this title held by an institution determined to be in violation of paragraph (1).

(25 U.S.C. 1814) Enacted October 17, 1978, P.L. 95–471, title I, sec. 113, 92 Stat. 1329; amended December 1, 1983, sec. 4(a)(1), 97 Stat. 1336.

RULES AND REGULATIONS [1]

Sec. 115. (a) Within four months from the date of enactment of this Act, the Secretary shall, to the extent practicable, consult with national Indian organizations to consider and formulate appropriate rules and regulations for the conduct of the grant program established by this title.

(b) Within six months from the date of enactment of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(c) Within ten months from the date of enactment of this Act, the Secretary shall promulgate rules and regulations for the conduct of the grant program established by this title.

(d) Funds to carry out the purposes of this section may be drawn from general administrative appropriations to the Secretary made after the date of enactment of this Act.

(25 U.S.C. 1815) Enacted October 17, 1978, P.L. 95–471, title I, sec. 114, 92 Stat. 1329; amended December 1, 1983, P.L. 98–192, sec. 4(a)(1), 97 Stat. 1336.

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TITLE III—TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

PURPOSE

Sec. 301. It is the purpose of this title to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled community colleges.

(25 U.S.C. 1831) Enacted December 1, 1983, P.L. 98–192, sec. 13, 97 Stat. 1341.

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[1] Public Law 98–192 (97 Stat. 1343), which reauthorized and amended the Act, included the following section:

"Sec. 15. In promulgating regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community colleges.".

ESTABLISHMENT OF PROGRAM; PROGRAM AGREEMENTS

SEC. 302. (a) From the amount appropriated pursuant to section 306, the Secretary shall establish a program of making endowment grants to tribally controlled community colleges which are current recipients of assistance under section 107 of this Act or under section 3 of the Navajo Community College Act. No such college shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year, but no such college shall be eligible for such a grant for a fiscal year if such college has been awarded a grant under section 333 of the Higher Education Act of 1965 for such fiscal year.

(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with the Secretary which—

(1) provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;

(2) provides for the deposit in such trust fund of—

(A) any Federal capital contributions made from funds appropriated under section 306;

(B) a capital contribution by such college in an amount equal to the amount of each Federal capital contribution; and

(C) any earnings of the funds so deposited;

(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time;

(4) provides that, if at any time such college withdraws any capital contribution made by that college, an equal amount of Federal capital contribution shall be withdrawn and returned to the Secretary for reallocation to other colleges;

(5) provides that no part of the net earnings of such trust fund will inure to the benefit of any private person; and

(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this title and as are agreed to by the Secretary and the college, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

(25 U.S.C. 1832) Enacted December 1, 1983, P.L. 98-192, sec. 13, 97 Stat. 1341.

USE OF FUNDS

SEC. 303. Interest deposited, pursuant to section 302(b)(2)(C), in the trust fund of any tribally controlled community college may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operation of such college, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

(25 U.S.C. 1833) Enacted December 1, 1983, P.L. 98-192, sec. 13, 97 Stat. 1342.

COMPLIANCE WITH MATCHING REQUIREMENT

SEC. 304. For the purpose of complying with the contribution requirement of section 302(b)(2)(B), a tribally controlled community college may use funds which are available from any private or tribal source.

(25 U.S.C. 1834) Enacted December 1, 1983, P.L. 98-192, sec. 13, 97 Stat. 1342.

ALLOCATION OF FUNDS

SEC. 305. (a) From the amount appropriated pursuant to section 306, the Secretary shall allocate to each tribally controlled community college which is eligible for an endowment grant under this title an amount for a Federal capital contribution equal to the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is available for deposit as a capital contribution of that college in accordance with section 302(b)(2)(B), except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed $350,000.

(b) If for any fiscal year the amount appropriated pursuant to section 306 is not sufficient to allocate to each tribally controlled community college an amount equal to the amount demonstrated by such college pursuant to subsection (a), then the amount of the allocation to each such college shall be ratably reduced.

(25 U.S.C. 1835) Enacted December 1, 1983, P.L. 98-192, sec. 13, 97 Stat. 1342.

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. (a) There is authorized to be appropriated to carry out the provisions of this title $5,000,000 for each of the fiscal years 1987, 1988, 1989, and 1990.

(b) Any funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

(25 U.S.C. 1836) Enacted December 1, 1983, P.L. 98-192, sec. 13, 97 Stat. 1343; amended September 30, 1986, P.L. 99-428, sec. 2(b), 100 Stat. 982.

PART III—NATIONAL SCIENCE FOUNDATION

National Science Foundation Act of 1950

AN ACT To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense; and other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Act of 1950."

(42 U.S.C. 1861, note) Enacted May 10, 1950, ch. 171, sec. 1, 64 Stat. 149.

ESTABLISHMENT OF NATIONAL SCIENCE FOUNDATION

SEC. 2. There is hereby established in the executive branch of the Government an independent agency to be known as the National Science Foundation (hereinafter referred to as the "Foundation"). The Foundation shall consist of a National Science Board (hereinafter referred to as the "Board") and a Director.

(42 U.S.C. 1861) Enacted May 10, 1950, ch. 171, sec. 2, 64 Stat. 149.

FUNCTIONS OF THE FOUNDATION

SEC. 3. (a) The Foundation is authorized and directed—

(1) to initiate and support basic scientific research and programs to strengthen scientific research potential and science education programs at all levels in the mathematical, physical, medical, biological, engineering, social, and other sciences, by making contracts or other arrangements (including grants, loans, and other forms of assistance) to support such scientific and educational activities and to appraise the impact of research upon industrial development and upon the general welfare;

(2) to award, as provided in section 10, scholarships and graduate fellowships in the mathematical, physical, medical, biological, engineering, social, and other sciences;

(3) to foster the interchange of scientific information among scientists in the United States and foreign countries;

(4) to foster and support the development and use of computer and other scientific methods and technologies, primarily for research and education in the sciences;

(5) to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups, employing by grant or contract such consulting services as it may deem necessary for the purpose of such evaluations; and to take into consideration the results of such evaluations in correlating the research and educational programs undertaken or supported by the Foundation with programs, projects, and studies undertaken by agencies of the Federal Government, by individuals, and by public and private research groups;

(6) to maintain a current register of scientific and technical personnel, and in other ways to provide a central clearinghouse for the collection, interpretation, and analysis of data on

the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal Government; and

(7) to initiate and maintain a program for the determination of the total amount of money for scientific research, including money allocated for the construction of the facilities wherein such research is conducted, received by each educational institution and appropriate nonprofit organization in the United States, by grant, contract, or other arrangement from agencies of the Federal Government, and to report annually thereon to the President and the Congress.

(b) The foundation is authorized to initiate and support specific scientific activities in connection with matters relating to international cooperation, national security, and the effects of scientific applications upon society by making contracts or other arrangements (including grants, loans, and other forms of assistance) for the conduct of such activities. When initiated or supported pursuant to requests made by any other Federal department or agency, including the Office of Technology Assessment, such activities shall be financed whenever feasible from funds transferred to the Foundation by the requesting official as provided in section 14(g), and any such activities shall be unclassified and shall be identified by the Foundation as being undertaken at the request of the appropriate official.

(c) In addition to the authority contained in subsections (a) and (b), the Foundation is authorized to initiate and support scientific research, including applied research, at academic and other nonprofit institutions. When so directed by the President, the Foundation is further authorized to support, through other appropriate organizations, applied scientific research relevant to national problems involving the public interest. In exercising the authority contained in this subsection, the Foundation may employ by grant or contract such consulting services as it deems necessary, and shall coordinate and correlate its activities with respect to any such problem with other agencies of the Federal Government undertaking similar programs in that field.

(d) The Board and the Director shall recommend and encourage the pursuit of national policies for the promotion of basic research and education in the sciences.

(e) In exercising the authority and discharging the functions referred to in the foregoing subsections, it shall be an objective of the Foundation to strengthen research and education in the sciences, including independent research by individuals, throughout the United States, and to avoid undue concentration of such research and education.

(f) The Foundation shall render an annual report to the President for submission on or before the 15th day of April of each year to the Congress, summarizing the activities of the Foundation and making such recommendations as it may deem appropriate. Such report shall include information as to the acquisition and disposition by the Foundation of any patents and patent rights.

(42 U.S.C. 1862) Enacted May 10, 1950, ch. 171, sec. 3, 64 Stat. 149; amended July 11, 1958, P.L. 85-510, sec. 1, 72 Stat. 353; amended September 8, 1959, P.L. 86-232, sec. 1, 73 Stat. 467; amended July 8, 1968, P.L. 90-407, sec. 1, 82 Stat. 360; amended

August 10, 1972, P.L. 92-372, sec. 8, 86 Stat. 528; amended October 13, 1972, P.L. 92-484, sec. 10(b), 86 Stat. 802; amended April 21, 1976, P.L. 94-273, sec. 11(3), 90 Stat. 378; August 15, 1977, P.L. 95-99, sec. 14(a), 91 Stat. 835.

NATIONAL SCIENCE BOARD

SEC. 4. (a) The Board shall consist of twenty-four members to be appointed by the President, by and with the advice and consent of the Senate, and of the Director ex officio. In making nominations under this section, the President shall give due regard to equitable representation of scientists who are women or who represent minority groups. In addition to any powers and functions otherwise granted to it by this Act, the Board shall establish the policies of the Foundation.

(b) The Board shall have an Executive Committee as provided in section 7, and may delegate to it or to the Director or both such of the powers and functions granted to the Board by this Act as it deems appropriate.

(c) The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management or public affairs; (2) shall be selected solely on the basis of established records of distinguished service and (3) shall be so selected as to provide representation of the views of scientific leaders in all areas of the Nation. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Association of State Universities and Land Grant Colleges, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities, or by other scientific or educational organizations.

(d) The term of office of each member of the Board shall be six years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person, other than the Director, who has been a member of the Board for twelve consecutive years shall thereafter be ineligible for appointment during the two-year period following the expiration of such twelfth year.

(e) The Board shall meet annually on the third Monday in May unless, prior to May 10 in any year, the Chairman has set the annual meeting for a day in May other than the third Monday and at such other times as the Chairman may determine, but he shall also call a meeting whenever one-third of the members so request in writing. A majority of the members of the Board shall constitute a quorum. Each member shall be given notice, by registered mail or certified mail mailed to his last known address of record not less than fifteen days prior to any meeting, of the call of such meeting.

(f) The election of the Chairman and Vice Chairman of the Board shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Board shall elect a member to fill such vacancy.

(g) The Board shall render an annual report to the President, for submission on or before the 31st day of April of each year to the Congress, on the status and health of science and its various disciplines. Such report shall include an assessment of such matters as national scientific resources and trained manpower, progress in selected areas of basic scientific research, and an indication of those aspects of such progress which might be applied to the needs of American society. The report may include such recommendations as the Board may deem timely and appropriate.

(h) The Board may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than five professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director and assigned at the direction of the Board. The professional members of such staff may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 of such title relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-15 of the General Schedule under section 5332 of such title, as may be necessary to provide for the performance of such duties as may be prescribed by the Board in connection with the exercise of its powers and functions under this Act. Each appointment under this subsection shall be subject to the same security requirements as those required for personnel of the Foundation appointed under section 14(a).

(i) The Board is authorized to establish such special commissions as it may from time to time deem necessary for the purposes of this Act.

(j) The Board is also authorized to appoint from among its members such committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Board deems appropriate to assist it in exercising its powers and functions under this Act.

(j) The Board shall render an annual report to the President, for submission to the Congress on or before March 31 in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Foundation or with which the Board in its official role as the policymaking body of the Foundation is concerned.

(42 U.S.C. 1863) Enacted May 10, 1950, ch. 171, sec. 4, 64 Stat. 150; amended September 8, 1959, P.L. 86-232, sec. 2, 73 Stat. 467; amended June 11, 1960, P.L. 86-507, sec. 1(36), 74 Stat. 202; amended July 18, 1968, P.L. 90-407, sec. 2, 82 Stat. 361; amended April 21, 1976, P.L. 94-273, sec. 11(3), 90 Stat. 378; amended May 11, 1976, P.L. 94-471, sec. 9, 90 Stat. 2057; August 15, 1977, P.L. 95-99, sec. 14(b), 91 Stat. 835; December 12, 1980, P.L. 96-516, sec. 21(a), 94 Stat. 3010; December 21, 1982, P.L. 97-375, sec. 214, 96 Stat. 1826.

DIRECTOR OF THE FOUNDATION

Sec. 5. (a) The Director of the Foundation (referred to in this Act as the "Director") shall be appointed by the President by and with the advice and consent of the Senate. Before any person is appointed as Director, the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall receive basic pay at the rate provided for level II of the Executive Schedule under section 5313 of title 5, United States Code, and shall serve for a term of six years unless sooner removed by the President.

(b) Except as otherwise specifically provided in this Act (1) the Director shall exercise all of the authority granted to the Foundation by this Act (including any powers and functions which may be delegated to him by the Board), and (2) all actions taken by the Director pursuant to the provisions of this Act (or pursuant to the terms of a delegation from the Board) shall be final and binding upon the Foundation.

(c) The Director may from time to time make such provisions as he deems appropriate authorizing the performance by any other officer, agency, or employee of the Foundation of any of his functions under this Act, including functions delegated to him by the Board; except that the Director may not redelegate policy-making functions delegated to him by the Board.

(d) The formulation of programs in conformance with the policies of the Foundation shall be carried out by the Director in consultation with the Board.

(e) The Director shall not make any contract, grant, or other arrangement pursuant to section 11(c) without the prior approval of the Board, except that a grant, contract, or other arrangement involving a total commitment of less than $2,000,000 or less than $500,000 in any one year, or a commitment of such lesser amount or amounts and subject to such other conditions as the Board in its discretion may from time to time determine to be appropriate and publish in the Federal Register, may be made if such action is taken pursuant to the terms and conditions set forth by the Board, and if each such action is reported to the Board at the Board meeting next following such action.

(f) The Director, in his capacity as ex officio member of the Board, shall, except with respect to compensation and tenure, be coordinate with the other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as Chairman or Vice Chairman of the Board.

(42 U.S.C. 1864) Enacted May 10, 1950, ch. 171, sec. 5, 64 Stat. 151; amended September 8, 1959, P.L. 86-232, sec. 3, 73 Stat. 467; amended July 8, 1968, P.L. 90-407, sec. 3, 82 Stat. 362.

DEPUTY DIRECTOR AND ASSISTANT DIRECTORS

SEC. 6. (a) There shall be a Deputy Director of the Foundation (referred to in this Act as the "Deputy Director") who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as Deputy Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. The Deputy Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code, and shall perform such duties and exercise such powers as the Director may prescribe. The Deputy Director shall act for, and exercise the powers of, the Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

(b) There shall be four Assistant Directors of the Foundation (each referred to in this Act as an "Assistant Director") who shall be appointed by the President, by and with the advice and consent of the Senate. Before any person is appointed as an Assistant Director, the President shall afford the Board and the Director an opportunity to make recommendations to him with respect to such appointment. Each Assistant Director shall receive basic pay at the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and shall perform such duties and exercise such powers as the Director may prescribe.

(42 U.S.C. 1864a) Enacted July 18, 1968, P.L. 90–407, sec. 4, 82 Stat. 363.

EXECUTIVE COMMITTEE

Sec. 7. (a) There shall be an Executive Committee of the Board (referred to in this Act as the "Executive Committee"), which shall be composed of five members and shall exercise such powers and functions as may be delegated to it by the Board. Four of the members shall be elected as provided in subsection (b), and the Director ex officio shall be the fifth member and the chairman of the Executive Committee.

(b) At each of its annual meetings the Board shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person, other than the Director, who has been a member of the Executive Committee for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) Any person elected as a member of the Executive Committee to fill a vacancy occurring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(d) The Executive Committee shall render an annual report to the Board, and such other reports as it may deem necessary, summarizing its activities and making such recommendations as it may deem appropriate. Minority views and recommendations, if any, of members of the Executive Committee shall be included in such reports.

(42 U.S.C. 1865) Enacted May 10, 1950, ch. 171, sec. 6, 64 Stat. 151; amended September 8, 1959, P.L. 86–232, sec. 4, 73 Stat. 467; renumbered and amended July 18, 1968, P.L. 90–407, sec. 4, 5, 82 Stat. 363, 364.

DIVISIONS WITHIN THE FOUNDATION

Sec. 8. There shall be within the Foundation such Divisions as the Director, in consultation with the Board, may from time to time determine.

(42 U.S.C. 1866) Enacted May 10, 1950, ch. 171, sec. 7, 64 Stat. 152; renumbered and amended July 18, 1968, P.L. 90–407, sec. 4, 6, 82 Stat. 363, 364.

SPECIAL COMMISSIONS

SEC. 9. (a) Each special commission established pursuant to section 4(i) shall consist of eleven members appointed by the Board, six of whom shall be eminent scientists and five of whom shall be persons other than scientists. Each special commission shall choose its own chairman and vice chairman.

(b) It shall be the duty of each special commission to make a comprehensive survey of research, both public and private, being carried on in its field, and to formulate and recommend to the Foundation at the earliest practicable date an overall research program in its field.

(42 U.S.C. 1868) Enacted May 10, 1950, ch. 171, sec. 9, 64 Stat. 152; amended July 18, 1968, P.L. 90–407, sec. 7, 82 Stat. 364.

SCHOLARSHIPS AND GRADUATE FELLOWSHIPS

SEC. 10. The Foundation is authorized to award, within the limits of funds made available specifically for such purpose pursuant to section 16, scholarships and graduate fellowships for scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences at appropriate nonprofit American or nonprofit foreign institutions selected by the recipient of such aid, for stated periods of time. Persons shall be selected for such scholarships and fellowships from among citizens or nationals of the United States, and such selections shall be made solely on the basis of ability; but in any case in which two or more applicants for scholarships or fellowships, as the case may be, are deemed by the Foundation to be possessed of substantially equal ability, and there are not sufficient scholarships or fellowships, as the case may be, available to grant one to each of such applicants, the available scholarship or scholarships, fellowship or fellowships shall be awarded to the applicants in such manner as will tend to result in a wide distribution of scholarships and fellowships throughout the United States. Nothing contained in this Act shall prohibit the Foundation from refusing or revoking a scholarship or fellowship award, in whole or in part, in the case of any applicant or recipient, if the Board is of the opinion that such award is not in the best interests of the United States.

(42 U.S.C. 1869) Enacted May 10, 1950, ch. 171, sec. 10, 64 Stat. 152; amended September 8, 1959, P.L. 86–233, sec. 5, 73 Stat. 468; amended June 29, 1960, P.L. 86–550, 74 Stat. 256; amended October 16, 1962, P.L. 87–835, sec. 2, 76 Stat. 1070; amended July 18, 1968, P.L. 90–407, sec. 8, 82 Stat. 364.

GENERAL AUTHORITY OF FOUNDATION

SEC. 11. The Foundation shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this Act, including, but without being limited thereto, the authority—

(a) to prescribe such rules and regulations as it deems necessary governing the manner of its operations and its organization and personnel;

(b) to make such expenditures as may be necessary for administering the provisions of this Act;

(c) to enter into contracts or other arrangements, or modifications thereof, for the carrying on, by organizations or individuals in the United States and foreign countries, including other government agencies of the United States and of foreign countries, of such scientific activities as the Foundation deems necessary to carry out the purposes of this Act, and, at the request of the Secretary of State or Secretary of Defense, specific scientific activities in connection with matters relating to international cooperation or national security, and, when deemed appropriate by the Foundation, such contracts or other arrangements or modifications thereof, may be entered into without legal consideration without performance or other bonds and without regard to section 3709 of the Revised Statutes (41 U.S.C. § 5);

(d) to make advance, progress, and other payments which relate to scientific activities without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. § 529);

(e) to acquire by purchase, lease, loan, gift, or condemnation, and to hold and dispose of by grant, sale, lease, or loan, real and personal property of all kinds necessary for, or resulting from, the exercise of authority granted by this Act;

(f) to receive and use funds donated by others, if such funds are donated without restriction other than that they be used in furtherance of one or more of the general purposes of the Foundation;

(g) to publish or arrange for the publication of scientific and technical information so as to further the full dissemination of information of scientific value consistent with the national interest, without regard to the provisions of section 87 by the Act of January 12, 1895 (28 Stat. 622), and section 11 of the Act of March 1, 1919 (40 Stat. 1270; 44 U.S.C. § 501);

(h) to accept and utilize the services of voluntary and uncompensated personnel and to provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation;

(i) to prescribe, with the approval of the Comptroller-General of the United States, the extent to which vouchers for funds expended under contracts for scientific research shall be subject to itemization or substantiation prior to payment, without regard to the limitations of other laws relating to the expenditure of public funds and accounting therefor; and

(j) to arrange with and reimburse the heads of other Federal agencies for the performance of any activity which the Foundation is authorized to conduct.

(42 U.S.C. 1870) Enacted May 10, 1950, ch. 171, sec. 11, 64 Stat. 153; amended September 8, 1959, P.L. 86-232, sec. 6, 73 Stat. 468; amended July 18, 1968, P.L. 90-407, sec. 9, 82 Stat. 365.

PATENT RIGHTS

Sec. 12. (a) Each contract or other arrangement executed pursuant to this Act which relates to scientific research shall contain provisions governing the disposition of inventions produced thereunder in a manner calculated to protect the public interest and the equities of the individual or organization with which the contract or other arrangement is executed: *Provided, however,* That nothing in this Act shall be construed to authorize the Foundation to enter into any contractual or other arrangement inconsistent with any provision of law affecting the issuance or use of patents.

(b) No officer or employee of the Foundation shall acquire, retain, or transfer any rights, under the patent laws of the United States or otherwise, in any invention which he may make or produce in connection with performing his assigned activities and which is directly related to the subject matter thereof: *Provided, however,* That this subsection shall not be construed to prevent any officer or employee of the Foundation from executing any application for patent on any such invention for the purpose of assigning the same to the Government or its nominee in accordance with such rules and regulations as the Director may establish.

(42 U.S.C. 1871) Enacted May 10, 1950, ch. 171, sec. 12, 64 Stat. 153.

INTERNATIONAL COOPERATION AND COORDINATION WITH FOREIGN POLICY

Sec. 13. (a) The Foundation is hereby authorized to cooperate in any international scientific activities consistent with the purposes of this Act and to expend for such international scientific activities such sums within the limit of appropriated funds as the Foundation may deem desirable. The Director may defray the expenses of representatives of Government agencies and other organizations and of individual scientists to accredited international scientific congresses and meetings whenever he deems it necessary in the promotion of the objectives of this Act. In this connection, with the approval of the Secretary of State, the Foundation may undertake programs, granting fellowships to, or making other similar arrangements with, foreign nationals for scientific study or scientific work in the United States without regard to section 10 or the affidavit of allegiance to the United States required by section 15(d)(2) of this Act.

(b)(1) The authority to enter into contracts or other arrangements with organizations or individuals in foreign countries and with agencies of foreign countries, as provided in section 11(c), and the authority to cooperate in international scientific activities as provided in subsection (a) of this section, shall be exercised only with the approval of the Secretary of State, to the end that such authority shall be exercised in such manner as is consistent with the foreign policy objectives of the United States.

(2) If, in the exercise of the authority referred to in paragraph (1) of this subsection, negotiation with foreign countries or agencies thereof becomes necessary, such negotiation shall be carried on by the Secretary of State in consultation with the Director.

(42 U.S.C. 1872) Enacted May 10, 1950, ch. 171, sec. 13, 64 Stat. 154; amended September 8, 1959, P.L. 86-232, sec. 7, 73 Stat. 468; amended July 18, 1968, P.L. 90-407, sec. 10, 82 Stat. 365.

MISCELLANEOUS PROVISIONS

Sec. 14. (a) The Director shall, in accordance with such policies as the Board shall from time to time prescribe, appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act. Except as provided in section 4(h), such appointments shall be made and such compensation shall be fixed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates: *Provided*, That the Director may, in accordance with such policies as the Board shall from time to time prescribe, employ such technical and professional personnel and fix their compensation, without regard to such provisions, as he may deem necessary for the discharge of the responsibilities of the Foundation under this Act. The members of the special commissions shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(b) Neither the Director, the Deputy Director, nor any Assistant Director shall engage in any other business, vocation, or employment while serving in such position; nor shall the Director, the Deputy Director, or any Assistant Director, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Foundation makes any grant, contract, or other arrangement under this Act.

(c) The Foundation shall not, itself, operate any laboratories or pilot plants.

(d) The members of the Board and the members of each special commission shall receive compensation for each day engaged in the business of the Foundation at a rate fixed by the Chairman but not exceeding the rate specified for the daily rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(e) Persons holding other offices in the executive branch of the Federal Government may serve as members of the special commissions, but they shall not receive remuneration for their services as such members during any period for which they receive compensation for their services in such other offices.

(f) In making contracts or other arrangements for scientific research, the Foundation shall utilize appropriations available therefor in such manner as will in its discretion best realize the objectives of (1) having the work performed by organizations, agencies, and institutions, or individuals in the United States or foreign countries, including Government agencies of the United States and of foreign countries, qualified by training and experience to achieve the results desired, (2) strengthening the research staff of organizations, particularly nonprofit organizations, in the United States, (3) aiding institutions, agencies or organizations which, if aided, will advance scientific research, and (4) encouraging independent scientific research by individuals.

(g) Funds available to any department or agency of the Government for scientific or technical research, or the provision of facilities therefor, shall be available for transfer, with the approval of the head of the department or agency involved, in whole or in part, to the Foundation for such use as is consistent with the purposes for which such funds were provided, and funds so transferred shall be expendable by the Foundation for the purposes for which the transfer was made.

(h) For purposes of this Act, the term "United States" when used in a geographical sense means the States, the District of Columbia, the Commonwealth of Puerto Rico, and all territories and possessions of the United States.

(i) Notwithstanding any other provision of law, the authorization of any appropriation to the Foundation shall expire (unless an earlier expiration is specifically provided) at the close of the second fiscal year following the fiscal year for which the authorizaton was enacted, to the extent that such appropriation has not theretofore actually been made.

(42 U.S.C. 1873) Enacted May 10, 1950, ch. 171, sec. 14, 64 Stat. 154; renumbered July 11, 1958, P.L. 85-510, sec. 2, 72 Stat. 353; amended September 8, 1959, P.L. 86-232, sec. 8, 73 Stat. 469; renumbered and amended July 18, 1968, P.L. 90-407, sec. 11(2), 12, 82 Stat. 365, 366; amended November 18, 1969, P.L. 91-120, sec. 3, 83 Stat. 203; amended August 15, 1977, P.L. 95-99, sec. 14(c), 92 Stat. 835.

SECURITY PROVISIONS

SEC. 15. (a) The Foundation shall not support any research or development activity in the field of nuclear energy, nor shall it exercise any authoriity pursuant to section 11(e) in respect to that field, without first having obtained the concurrence of the Atomic Energy Commission that such activity will not adversely affect the common defense and security. To the extent that such activity involves restricted data as defined in the Atomic Energy Act of 1954 the provisions of that Act regarding the control of the dissemination of restricted data and the security clearance of those individuals to be given access to restricted data shall be applicable. Nothing in this Act shall supersede or modify any provision of the Atomic Energy Act of 1954.

(b)(1) In the case of scientific or technical research activities under this Act in connection with matters relating to the national defense, with respect to which funds have been transferred to the Foundation from the Department of Defense in accordance with the provisions of section 14(g) of this Act, the Secretary of Defense shall establish such security requirements and safeguards, including restrictions with respect to access to information and property, as he deems necessary.

(2) In the case of scientific research activities under this Act in connection with matters relating to the national defense other than research activities referred to in paragraph (1) of this subsection, the Foundation shall establish such security requirements and safeguards, including restrictions with respect to access to information and property as it deems necessary.

(3) Any agency of the Government exercising investigatory functions is hereby authorized to make such investigations and reports as may be requested by the Foundation in connection with the enforcement of security requirements and safeguards, including restrictions with respect to access to information and property, established under paragraph (1) or (2) of this subsection.

(c)(1) No part of any funds appropriated or otherwise made available for expenditure by the Foundation under authority of this Act shall be used to make payments under any scholarship or fellowship awarded to any individual under section 10, unless such individual—

(A) has taken and subscribed to an oath or affirmation in the following form: "I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic"; and

(B) has provided the Foundation (in the case of applications made on or after October 1, 1962) with a full statement regarding any crimes of which he has ever been convicted (other than crimes committed before attaining sixteen years of age and minor traffic violations for which a fine of $25 or less was imposed) and regarding any criminal charges punishable by confinement of thirty days or more which may be pending against him at the time of his application for such scholarship or fellowship.

The provisions of section 1001 of title 18, United States Code, shall be applicable with respect to the oath or affirmation and statement herein required.

(2)(A) When any Communist organization, as defined in paragraph (5) of section 3 of the Subversive Activities Control Act of 1950, is registered or there is in effect a final order of the Subversive Activities Control Board requiring such organization to register, it shall be unlawful for any member of such organization with knowledge or notice that such organization is so registered or that such order has become final (i) to make application for any scholarship or fellowship which is to be awarded from funds part or all of which are appropriated or otherwise made available for expenditure under the authority of section 10 of this Act, or (ii) to use or attempt to use any such award.

(B) Whoever violates subparagraph (A) of this paragraph shall be fined not more than $10,000, or imprisoned not more than five years, or both.

(42 U.S.C. 1874) Enacted May 10, 1950, ch. 171, sec. 15, 64 Stat. 156; amended April 5, 1952, ch. 159, sec. 1, 66 Stat. 43; renumbered July 11, 1958, P.L. 85–510, sec. 2, 72 Stat. 353; amended October 16, 1962, P.L. 87–835, sec. 1, 76 Stat. 1069; renumbered and amended July 18, 1968, P.L. 90–407, sec. 11(2), 13, 82 Stat. 365, 366; amended December 12, 1980, P.L. 96–516, sec. 21(b), 94 Stat. 3010.

APPROPRIATIONS

Sec. 16. To enable the Foundation to carry out its powers and duties, only such sums may be appropriated as the Congress may authorize by law.

(42 U.S.C. 1875) Enacted May 10, 1950, ch. 171, sec. 16, 64 Stat. 156.

PART IV—ASSISTANCE TO SPECIFIED INSTITUTIONS

Act of March 2, 1867

AN ACT To incorporate the Howard University in the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be established, and is hereby established, in the District of Columbia, a university for the education of youth in the liberal arts and sciences, under the name, style, and title of "The Howard University."

SEC. 2. *And be it further enacted,* That Samuel C. Pomeroy, Charles B. Boynton, Oliver O. Howard, Burton C. Cook, Charles H. Howard, James B. Hutchinson, Henry A. Brewster, Benjamin F. Morris, Danforth B. Nichols, William G. Finney, Roswell H. Stevens, E. M. Cushman, Hiram Barber, E. W. Robinson, W. F. Bascom, J. B. Johnson, and Silas L. Loomis, be, and they are hereby, declared to be a body politic and corporate, with perpetual succession in deed or in law to all intents and purposes whatsoever, by the name, style, and title of "The Howard University," by which name and title they and their successors shall be competent, at law and in equity, to take to themselves and their successors, for the use of said university, any estate whatsoever in any messuage, lands, tenements, hereditaments, goods, chattels, moneys, and other effects, by gift, devise, grant, donation, bargain, sale, conveyance, assurance, or will; and the same to grant, bargain, sell, transfer, assign, convey, assure, devise, declare, to use and farm let, and to place out on interest, for the use of said university, in such manner as to them, or a majority of them, shall be deemed most beneficial to said institution; and to receive the same, their rents, issues, and profits, income and interest, and to apply the same for the proper use and benefit of said university; and by the same name to sue and be sued, to implead and be imple[a]ded, in any courts of law and equity, in all manner of suits, actions, and proceedings whatsoever, and generally by and in the same name to do and transact all and every the business touching or concerning the premises: *Provided,* That the same do not exceed the value of fifty thousand dollars net annual income, over and above and exclusive of the receipts for the education and support of the students of said university.

SEC. 3. *And be it further enacted,* That the first meeting of said corporators shall be holden at the time and place at which a majority of the persons herein above named shall assemble for that purpose; and six days' notice shall be given each of said corporators, at which meeting said corporators may enact by-laws not inconsistent with the laws of the United States regulating the government of the corporation.

SEC. 4. *And be it further enacted,* That the government of the university shall be vested in a board of trustees, of not less than thirteen members, who shall be elected by the corporators at their first meeting. Said board of trustees shall have perpetual succession in deed or in law, and in them shall be vested the power hereinbefore granted to the corporation. They shall adopt a common seal, which they may alter at pleasure, under and by which all deeds, diplomas, and acts of the university shall pass and be authenticated. They shall elect a president, a secretary, and a treasurer. The treasurer shall give such bonds as the board of trustees may direct. The said board shall also appoint the professors and tutors, prescribing the number, and determining the amount of their respective salaries. They shall also appoint such other officers, agents, or employees, as the wants of the university may from time to time demand, in all cases fixing their compensation. All meetings of said board may be called in such manner as the trustees shall prescribe, and nine of them so assembled shall constitute a quorum to do business, and a less number may adjourn from time to time.

Sec. 5. *And be it further enacted,* That the university shall consist of the following departments, and such others as the board of trustees may establish: First, normal; second, collegiate; third, theological; fourth, law; fifth, medicine; sixth, agriculture.

Sec. 6. *And be it further enacted,* That the immediate government of the several departments, subject to the control of the trustees, shall be entrusted to their respective faculties, but the trustees shall regulate the course of instruction, prescribe, with the advice of the professors, the necessary text-books, confer such degrees, and grant such diplomas as are usually conferred and granted in other universities.

Sec. 7. *And be it further enacted,* That the board of trustees shall have power to remove any professor or tutor or other officers connected with the institution, when, in their judgment, the interest of the university shall require it.

Sec. 8. Annual appropriations are hereby authorized to aid in the construction, development, improvement, endowment, and maintenance of the university, no part of which shall be used for religious instruction. The university shall at all times be open to inspection by the Bureau of Education and shall be inspected by the said bureau at least once each year. An annual report making a full exhibit of the affairs of the university shall be presented to Congress each year in the report of the Bureau of Education. (20 U.S.C. 123)

Sec. 9. *And be it further enacted,* That no misnomer of the said corporation shall defeat or annul any donation, gift, grant, devise, or bequest to or from the said corporation.

Sec. 10. *And be it further enacted,* That the said corporation shall not employ its funds or income, or any part thereof in banking operations or for any purpose or object other than those expressed in the first section of this act; and that nothing in this act contained shall be so construed as to prevent Congress from altering, amending, or repealing the same.

Approved, March 2, 1867.

Howard University Endowment Act

TITLE II—HOWARD UNIVERSITY ENDOWMENT

SHORT TITLE

SEC. 201. This title may be cited as the "Howard University Endowment Act".

(20 U.S.C. 130aa, note) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

DEFINITIONS

SEC. 202. For purposes of this title—

(1) the term "endowment fund" means a fund, or a tax exempt foundation, established and maintained by Howard University for the purpose of generating income for its support, but which shall not include real estate;

(2) the term "endowment fund corpus" means an amount equal to the grants awarded under this title plus an amount equal to such grants provided by Howard University;

(3) the term "endowment fund income" means an amount equal to the total value of the endowment fund established under this title minus the endowment fund corpus;

(4) the term "Secretary" means the Secretary of Education; and

(5) the term "University" means the Howard University established by the Act of March 2, 1867.

(20 U.S.C. 130aa) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

PROGRAM AUTHORIZED

SEC. 203. (a) The Secretary is authorized to establish an endowment program, in accordance with the provisions of this title, for the purpose of establishing or increasing endowment funds, providing additional incentives to promote fundraising activities, and encouraging independence and self-sufficiency at the University.

(b)(1) From the funds appropriated pursuant to this title for endowments in any fiscal year for the University, the Secretary is authorized to make grants to Howard University. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions deemed necessary by the Secretary to assure that the purposes of this title will be achieved.

(2) The University may receive a grant under this section only if it has deposited in the endowment fund established under this title an amount equal to such grant and has adequately assured the Secretary that it will administer the endowment fund in accordance with the requirements of this title. The source of funds for this institutional match shall not include Federal funds or funds derived from an existing endowment fund.

(3) The period of any grant under this section shall not exceed twenty years, and during such period the University shall not withdraw or expend any of its endowment fund corpus. Upon the expiration of any grant period, the University may use the endowment

fund corpus plus any endowment fund income for any educational purpose.

(20 U.S.C. 130aa-1) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

INVESTMENTS

SEC. 204. (a) The University shall invest its endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the law of the District of Columbia, such as federally insured bank savings account or comparable interest bearing account, certificate of deposit, money market fund, mutual fund, or obligations of the United States.

(b) The University, in investing its endowment fund corpus and income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of his own business affairs.

(20 U.S.C. 130aa-2) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2245.

WITHDRAWALS AND EXPENDITURES

SEC. 205. (a) The University may withdraw and expend its endowment fund income to defray any expenses necessary to its operation, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor entered into after January 1, 1981. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 per centum of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) The Secretary is authorized to permit the University to withdraw or expend more than 50 per centum of its total aggregate endowment income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(A) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(B) a life-threatening situation occasioned by a natural disaster or arson; or

(C) another unusual occurrence or exigent circumstance.

(c)(1) If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to 50 per centum of the amount improperly expended (representing the Federal share thereof).

(2) The University shall not withdraw or expend any endowment fund corpus. If the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to 50 per centum of the amount withdrawn or expended (representing the Federal share thereof) plus any income earned thereon.

(20 U.S.C. 130aa-3) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2246.

ENFORCEMENT

SEC. 206. (a) After notice and an opportunity for a hearing, the Secretary is authorized to terminate and recover any grant awarded under this title if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 205;

(2) fails to invest its endowment fund corpus or income in accordance with the investment standards set forth in section 204; or

(3) fails to account properly to the Secretary concerning investments and expenditures of its endowment fund corpus or income.

(b) If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this Act plus any income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

(20 U.S.C. 130aa-4) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2247.

AUTHORIZATION OF APPROPRIATIONS

SEC. 207. There is authorized to be appropriated $2,000,000 for the purposes authorized under section 203. Funds appropriated under this section shall remain available until expended.

(20 U.S.C. 130aa-5) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2247.

CONFORMING AMENDMENTS

SEC. 208. [Conforming amendments to the Act of March 2, 1867, incorporated in text shown on pages 425-426.]

EFFECTIVE DATE

SEC. 209. This title shall take effect on October 1, 1984.

(20 U.S.C. 130aa, note) Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2247.

Herbert Hoover Memorial

AN ACT To recognize the fifty years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his service as thirty-first President of the United States, and in commemoration of the one hundredth anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to establish an appropriate memorial to the late President Herbert Hoover, the Secretary of the Treasury (hereinafter referred to as the "Secretary") is authorized to make grants, in accordance with the provisions of this Act, to the Hoover Institution on War, Revolution, and Peace, Stanford University, Stanford, California.

(b) No grant may be made under this Act for any fiscal year unless—

(1) the Secretary determines that the total of such grants for that year will not exceed the total amount of gifts, bequests, and devises of money, securities, and other property, made after the date of enactment of this Act, for that year for the benefit of the Hoover Institution on War, Revolution, and Peace; and

(2) the Hoover Institution on War, Revolution, and Peace furnishes to the Secretary such information at such times and in such manner as he may require.

(c) Grants made under this Act may be used for the construction of a new educational building to be used by the Hoover Institution on War, Revolution, and Peace, and for the equipment of such building.

Enacted January 2, 1975, Public Law 93-585, sec. 1, 88 Stat. 1918.

SEC. 2. (a) The Congress finds that, if a facility constructed with the aid of any grant under this Act is used as an educational facility for twenty years following completion of such construction, the public benefit accruing to the United States from such use will equal in value the amount of such grant or grants. The period of twenty years after completion of such construction shall, therefore, be deemed to be the period of Federal interest in such facility for the purposes of this Act.

(b) If, within twenty years after completion of construction of an educational facility which has been constructed in part with a grant or grants under this Act—

(1) the Hoover Institution on War, Revolution, and Peace (or its successor in title or possession) ceases or fails to be a nonprofit institution, or

(2) the facility ceases to be used as an educational facility, unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such Institution (or successor) an amount which bears to the then value of the facility the same ratio as the amount of such Federal grant or grants bore to the development cost of the facility (as determined by the Secretary) financed with the aid of such grant or grants. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(c) Notwithstanding the provisions of subsections (a) and (b), no facility constructed with assistance under this Act shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

Enacted January 2, 1975, Public Law 93-585, sec. 2, 88 Stat. 1919.

SEC. 3. The Comptroller General of the United States, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the Hoover Institution on War, Revolution, and Peace that are pertinent to the grant received.

Enacted January 2, 1975, Public Law 93-585, sec. 3, 88 Stat. 1919.

SEC. 4. The Hoover Institution on War, Revolution, and Peace shall, annually, prepare and furnish to the President and the Congress a report on the expenditure of funds received by the Institution in the previous fiscal year during the period for which grants are made under this Act.

Enacted January 2, 1975, Public Law 93-585, sec. 3, 88 Stat. 1919.

SEC. 5. There are authorized to be appropriated to the Secretary for making grants in accordance with this Act amounts not to exceed $7,000,000. Funds appropriated pursuant to this Act shall be available without fiscal year limitation, for the period beginning on the date of enactment of this Act and ending five years after such date.

Enacted January 2, 1975, Public Law 93-585, sec. 5, 88 Stat. 1919.

SEC. 6. Grants made pursuant to this Act shall be the sole Federal memorial to the late President Herbert Hoover.

Enacted January 2, 1975, Public Law 93-585, sec. 6, 88 Stat. 1919.

Grants to Eisenhower College and to the Samuel Rayburn Library

(P.L. 93-441)

AN ACT To authorize the Secretary of the Treasury to change the alloy and weight of the one-cent piece and to amend the Bank Holding Act Amendments of 1970 to authorize grants to Eisenhower College, Seneca Falls, New York

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SEC. 2. (a) Except as provided by subsection (b) and after receiving the assurances described in subsection (c), the Secretary of the Treasury is authorized to take one-tenth of all moneys derived from the sale $1 proof coins minted and issued under section 101(d) of the Coinage Act of 1965 (31 U.S.C. 391(d)) and section 203 of the Bank Holding Company Act Amendments of 1970 (31 U.S.C. 324b) which bears the likeness of the late President of the United States, Dwight David Eisenhower, and transfer such amount of moneys to Eisenhower College, Seneca Falls, New York.

(b) For the purposes of carrying out this section, there is authorized to be appropriated not to exceed $10,000,000.

(c) Before the Secretary of the Treasury may transfer any moneys to Eisenhower College under this Act, Eisenhower College must make satisfactory assurances to him that any amount equal to 10 per centum of the total amount of moneys received by Eisenhower College under this Act shall be transferred to the Samuel Rayburn Library at Bonham, Texas.

Enacted October 11, 1974, Public Law 93-441, sec. 2, 88 Stat. 1262.

Education Amendments of 1980

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TITLE XIII—MISCELLANEOUS PROVISIONS

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PART H—MEMORIALS

Subpart 1—The Robert A. Taft Institute

SHORT TITLE

SEC. 1371. This subpart may be cited as the "Robert A. Taft Institute Assistance Act".

Enacted October 3, 1980, P.L. 96-374, sec. 1371, 94 Stat. 1502.

GRANTS FOR DEVELOPMENT

SEC. 1372. (a) In recognition of the public service of Senator Robert A. Taft, the Secretary of Education is authorized to make grants to the Robert A. Taft Institute of Government, located in New York, New York.

(b) The total amount of grants under this section in any fiscal year may not exceed the total amount of private contributions received by the Institute for the fiscal year for which the grants are made.

(c) No payment may be made under this subpart except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may require.

Enacted October 3, 1980, P.L. 96-374, sec. 1372, 94 Stat. 1502.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1373. There are authorized to be appropriated $750,000 for the fiscal year 1981 and for each fiscal year ending prior to October 1, 1985.

Enacted October 3, 1980, P.L. 96-374, sec. 1373, 94 Stat. 1502.

Subpart 2—General Daniel James Memorial Health Education Center

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 1376. (a) In recognition of the public service of General Daniel James and as a memorial to General Daniel James, the Secretary of Education shall, in accordance with the provisions of this title, make a grant to establish the General Daniel James Memorial Health Education Center to be located at Tuskegee Institute, Tuskegee, Alabama.

(b) No grant may be made under subsection (a) of this section unless an application is made to the Secretary at such time and in such manner as the Secretary may provide. The application shall contain provisions designed to assure that—

(1) the building known as the General Daniel James Memorial Health Education Center will be located on the campus of Tuskegee Institute, Tuskegee, Alabama;

(2) the memorial will serve as a regional center for preventive health education and as a repository for papers and memorabilia relating to the life of General Daniel James; and

(3) such other reasonable conditions as the Secretary may require.

Enacted October 3, 1980, P.L. 96-374, sec. 1376, 94 Stat. 1502.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1377. (a) There are authorized to be appropriated $6,000,000 for the fiscal year 1981 to carry out the provisions of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

Enacted October 3, 1980, P.L. 96-374, sec. 1377, 94 Stat. 1503.

Subpart 3—The William Levi Dawson Chair of Public Affairs

SHORT TITLE

SEC. 1381. This subpart may be cited as the "William Levi Dawson Chair of Public Affairs Act".

Enacted October 3, 1980, P.L. 96-374, sec. 1381, 94 Stat. 1503.

ASSISTANCE FOR THE ESTABLISHMENT OF THE WILLIAM LEVI DAWSON CHAIR OF PUBLIC AFFAIRS

SEC. 1382. (a) The Secretary of Education is authorized to provide financial assistance in accordance with the provision of this section to establish the William Levi Dawson Chair of Public Affairs at Fisk University, Nashville, Tennessee.

(b) No financial assistance under this title may be made except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

Enacted October 3, 1980, P.L. 96-374, sec. 1382, 94 Stat. 1503.

AUTHORIZATION OF APPROPRIATIONS

SEC. 1383. (a) There are authorized to be appropriated such sums, not to exceed $750,000, for the fiscal year 1981, as may be necessary to carry out the provisions of section 1802[1] of this title.

(b) Funds appropriated pursuant to this title shall remain available until expended.

Enacted October 3, 1980, P.L. 96-374, sec. 1383, 94 Stat. 1503.

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[1] Apparent error. Should probably refer to section 1382.

Public Law 98-480

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TITLE III—HIGHER EDUCATION PROJECTS

LIBRARY PROJECT AUTHORIZED

SEC. 301. (a) The Secretary of Education (hereafter in this title referred to as the "Secretary") is authorized to provide financial assistance, in accordance with the provisions of this section, to pay all of the cost of construction, and related expenses, for an addition to the William H. Mortensen Library at the University of Hartford located at Hartford, Connecticut, to enable the University of Hartford to house a collection of materials relating to Presidential campaigns and to American political history, known as the Presidential Americana, together with other collections.

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $6,500,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2247.

HUMAN DEVELOPMENT CENTER FACILITY AUTHORIZED

SEC. 302. (a) The Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Kansas located in Lawrence, Kansas, to pay the Federal share of the cost of construction and related costs for a human development center facility at the University of Kansas, to be used as a national research and training resource for individuals acquiring expertise in the rehabilitation, education, parent training, employment, independent living, and public policy concerns of handicapped individuals and their families, and as a treatment resource for handicapped persons and their families.

(b) No financial assistance may be made under this section unless an application is made at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated such sums, not to exceed $9,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2248.

CARL VINSON INSTITUTE OF GOVERNMENT AUTHORIZED

SEC. 303. (a) In recognition of the public service of Representative Carl Vinson, in order to enhance the program of service to State and local governments in Georgia and in other States provided by the Carl Vinson Institute of Government of the University of Georgia, and in order to preserve a historic landmark that provided special education opportunities for young women in Georgia and in other States at a time when such opportunities were limited or nonexistent, the Secretary is authorized, in accordance with the provisions of this section, to provide financial assistance to the State of Georgia to renovate the physical facilities of the former Lucy Cobb Institute for Girls in Athens, Georgia, for the purpose of providing a center for the Carl Vinson Institute of Government of the University of Georgia.

(b) No financial assistance may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) There are authorized to be appropriated $3,500,000 to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2248.

JOHN W. MC CORMACK INSTITUTE OF PUBLIC AFFAIRS

SEC. 304. (a) In recognition of the public service of the former Speaker of the United States House of Representatives, John W. McCormack, and of the pressing need for national centers for applied public policy research, the Secretary is authorized to provide funds in accordance with the provisions of this section to assist in the development of the John W. McCormack Institute of Public Affairs, located at the University of Massachusetts, Boston, Massachusetts.

(b) No payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require in order to certify the amount of eligible funds. All such payments may be used in furtherance of the mission of the McCormack Institute, which is defined as research, instruction, and civil education related to public policy and the role of representative government in the United States.

(c)(1) Funds appropriated pursuant to this section shall be made available to the John W. McCormack Institute on or after October 1, 1984, and prior to the close of the fiscal year ending September 30, 1987.

(2) There are authorized to be appropriated such sums as may be necessary to carry out this section for the fiscal year ending September 30, 1985, and for each of the two succeeding fiscal years, except that the aggregate amount so appropriated shall not exceed $3,000,000. Funds appropriated pursuant to this section shall remain available until expended.

Enacted October 17, 1984, P.L. 98-480, 98 Stat. 2249.

Human Services Reauthorization Act

(P.L. 98-558)

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TITLE V—HIGHER EDUCATION AND RESEARCH PROJECT

CENTER FOR EXCELLENCE IN EDUCATION AUTHORIZED

SEC. 501. (a) The Secretary of Education (hereinafter in this section referred to as the "Secretary") is authorized in accordance with the provisions of this title, to provide financial assistance to Indiana University located in Bloomington, Indiana, to pay the Federal share of the cost of the construction, and related costs, including renovation costs, for the Center for Excellence in Education facility at Indiana University, to be used as a national research and training resource for individuals who intend to become exemplary elementary and secondary school teachers and administrators.

(b)(1) No financial assistance may be made under this title unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(2) For the purpose of this section, the Federal share of the cost of the Center for Excellence in Education facility at the Indiana University should not exceed 50 percent.

(c) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this title shall remain available until September 30, 1987.

Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2888.

RESEARCH CENTERS

SEC. 502. (a)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") is authorized, in accordance with the provisions of this section, to provide financial assistance to the University of Utah located in Salt Lake City, Utah, to pay the Federal share of the cost of the establishment and operation (including construction, and related costs, including renovation costs) of a center for research on the health effects of nuclear energy and other new energy technologies.

(2)(A) No financial assistance may be made under this subsection unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(B) For the purpose of this subsection, the Federal share of the cost of the center shall not exceed 50 percent.

(3) There are authorized to be appropriated such sums, not to exceed $4,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

(b)(1) The Secretary shall, through the National Cancer Institute, establish or support at least one clinic or health facility for cancer screening and research in St. George, Utah. Such clinic shall be affiliated with a health science center capable of providing clinical, research, and interdisciplinary technical assistance to such clinic or facility, and shall make its services accessible to the preponderance of the residents of the areas that have received the greatest fallout from the Nevada nuclear tests.

(2) There are authorized to be appropriated such sums, not to exceed $6,000,000, as may be necessary to carry out the provisions of this subsection. Funds appropriated pursuant to this subsection shall remain available until September 30, 1987.

Enacted October 30, 1984, P.L. 98-558, 98 Stat. 2889.

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